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SECTION IX

LECTURES ON THE
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THOMAS JEFFERSON
Third President of the United States.

AT RICHMOND

1800

THOMAS JEFFERSON
Third President of the United States.

LECTURES
ON THE
GROWTH AND DEVELOPMENT
OF THE
UNITED STATES



Edited by EDWIN WILEY, M.A., Ph.D.
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SERIES EIGHT
LECTURE THIRTY-FIVE

The Federalist System: Development of Democracy, 1789 – 1801
(Continued)

35. Social and Economic Conditions in 1800

CHAPTER XIX.

1798-1800.

AFFAIRS IN THE WEST AND SOUTHWEST.

Cessions of land to the government—The Yazoo land companies—Organization of Mississippi Territory—Act of Congress regulating the sale of public lands—Conditions in the Northwest Territory—Establishment of territorial government—Separation of Indiana and Ohio territories.

During the first session of the sixth Congress, which convened December 2, 1799, the House turned its attention to the condition of public domain. As mentioned before, cessions of western lands had been made from time to time by the various States. On February 19, 1780, New York surrendered the country lying between the sources of the Great Lakes and the Cumberland mountains. In January of 1781, Virginia ceded the territory northwest of the Ohio, the deed of cession being executed March 1, 1784. A strip of land included in this Virginia cession, running 80 miles north of latitude $42^{\circ} 2'$ and stretching from the Mississippi to New York, had been claimed by Massachusetts and was ceded to the United States in 1784. South of this lay another strip, which was claimed by Connecticut and ceded in 1786. South Carolina soon followed suit, ceding a strip of land 14 miles wide south of north latitude 35° and running from her western boundary line to the Mississippi.* The ordi-

nance of 1787 was then passed, as already related, and the territory northwest of the River Ohio was under stable government.

But several of the grants made to the government were made with reservations. Connecticut retained a tract of 3,800,000 acres in Ohio, west of Pennsylvania and running 120 miles along Lake Erie. This was known as the "Western Reserve of Connecticut" and was finally (in 1800) ceded to the United States and by the latter to Ohio.* Virginia had set apart a tract of 150,000 acres in what is now Indiana for the use of General Clark and his men. The Virginia Military District of 4,200,000 acres lay along the north bank of the Ohio, from the Scioto to the Little Miami.

South of the Carolina cession were the lands claimed by Georgia. Formerly South Carolina had claimed lands lying on the Mississippi, regardless of the fact that Georgia lay between the territory claimed and that

* William A. Mowry, *The Territorial Growth of The United States*, chap. ii.

* King, *Ohio*, p. 280. See also E. E. Sparks, *The Expansion of the American People*, p. 114.

actually possessed. Nevertheless she ceded to Virginia the claims she could not make good, leaving that State to carry on the dispute with the National government. In 1788 Georgia offered that land to the government, but Congress rejected the offer, claiming that its southern portion (whose northern limit was the parallel of latitude of the point at which the Yazoo entered the Mississippi, extending from this river to the Chattahoochee) had belonged to West Florida, and therefore, under the treaty of 1783 with Great Britain, belonged to the Nation and not to the particular State which happened to be contiguous to it.

Georgia persisted in her claim, however, and in 1789 sold 13,500,000 acres of land beyond the Chattahoochee to the Georgia Yazoo Company, the South Carolina Yazoo Company, and the Tennessee Yazoo Company for \$200,000; but as the money tendered in payment was in depreciated Georgia notes, the sale was subsequently cancelled. Much of the land had been sold by the State to New England speculators, who, to develop it, formed four Yazoo companies — the Georgia, the Georgia Mississippi, the Upper Mississippi, and the Tennessee. On January 7, 1795, these companies, by uncertain methods, induced the Georgia legislature to sell them 35,000,000 acres for \$500,000, giving the legislators some of the land for their votes.* This transac-

tion soon came to light, and the people indignantly denounced the unscrupulous members. So thoroughly aroused was public feeling that on February 13, 1796, the Legislature revoked the sale of the land and publicly burned the deed.*

Meanwhile a large part of the southern portion of this land had been seized by the Spanish government, which would not evacuate it, although the treaty of 1796 had ceded it to America. On various pretenses, the Spanish governor at Natchez interposed vexatious delays,† and sorely tried the patience of Colonel Ellicott, the United States commissioner for arranging the boundary line between the Spanish and American territories.‡ Not before March 29, 1798, was Natchez evacuated by the Spaniards, and the evacuation was carried out so secretly that it was only by chance that Ellicott learned of it at all. Meanwhile Georgia had ceded to the United States the portion above mentioned, and Congress passed an act on April 7 erecting this tract of land into the Mississippi Territory.|| Its government was similar to that of

* McMaster, vol. ii., pp. 479-480. See also, Roosevelt, *Winning of the West*, vol. iv., pp. 188-192; Henry Adams, *History of the United States*, vol. i., pp. 302-304.

† See Roosevelt, *Winning of the West*, vol. iv., p. 208 *et seq.*

‡ Phelps, *Louisiana*, p. 174.

|| Hamilton, *Colonial Mobile*, p. 343. For text of act, see Thorpe, *Federal and State Constitutions*, vol. iv., pp. 2625-2627. For the debate, see *Annals of Congress*, 5th Congress, 2d session, vol. ii., pp. 1249, 1277-1284, 1298-1312; Benton, *Abridgment of Debates*, vol. ii., pp. 217-224.

* The act is in *American State Papers, Indian Affairs*, vol. i., pp. 552-555.

the Northwest Territory, but the Federalists were unable to secure the adoption of a clause excluding slavery from the territory. Winthrop Sargent was appointed governor of the new territory and, together with a number of immigrant families from the territory north of the Ohio arrived at Natchez in the following August.* By April, 1799, the organization of the territory was completed. Exclusive of slaves and Indians, there were at that time about 5,000 persons within its limits.

In 1800, however, the population had so greatly increased, and there was so much dissatisfaction with the arbitrary measures of Governor Sargent and his council, that an act was passed (May 10, 1800) authorizing the establishment of the second class of territorial government at an earlier period than the population of the territory warranted under the provisions of the ordinance of July 13, 1787. A House of Representatives was thereupon elected and in December, after the members of the council had been reappointed, the general assembly was organized for business. The

Georgia claims were settled also, it being stipulated that the State was to be paid out of the proceeds of the land sales in Mississippi Territory.

On May 10, 1800, almost at the close of the session, Congress passed an act regarding the sale of public lands which laid the foundation of the land system. It provided that, before they were offered for sale, all the lands should be surveyed on a rigidly accurate plan at the government's expense. These surveys were founded upon a series of true meridians, the first in the present state of Ohio, the second in Indiana, the third in Illinois, etc., "each forming the base of a series of surveys, of which the lines are made to correspond, so that the whole country is at last divided into squares of one mile each, and townships of six miles each; and these subdivisions are distributed with mathematical accuracy into parallel ranges," by lines crossing each other at right angles due north and south, and east and west, "excepting when they are formed by an Indian boundary line, or the course of a stream." This act was amended by the Senate so that one-half was to be sold in sections, containing a square mile each, or six hundred forty acres each, and the other half in half sections, or three hundred twenty acres each. "The old system of forfeiture for non-payment was abolished, and payment was to be made, one-fourth in hand, and the balance at the end of two, three, and four years; allowing

* Jefferson says: "A governor, secretary, & 3 judges are named for the Mississippi territory. Of these, two are agents for the land companies, 2 are bankrupt speculators, & the others unknown," but "the appointments * * * were so abominable that the Senate could not swallow them. They referred them to a committee to inquire into characters, and the P. withdrew the nomination & has now named Winthrop Sergeant Governor, Steele of Augusta in Virginia, Secretary, Tilton & ——— two of the Judges, the other not yet named."—Ford's ed. of Jefferson's *Writings*, vol. vii., pp. 241, 248-249.

the purchaser one year after the fourth payment became due, to collect the money, and in case it should not be paid for in that time, the land to be sold, the public reimbursed, and the balance of its produce handed over to the delinquent purchaser." Offices for the sale of land were opened at Cincinnati, Chillicothe, Marietta and Steubenville. The sales effected and the money received were regularly reported to Washington, whereupon the purchaser received from the government an original patent to the soil. Modifications to this act were afterward introduced, as will be noted later.*

About the same time an act was passed which greatly affected the territory northwest of the River Ohio. After the Indian war had closed, the tide of prosperity began to set in. Farms began to be cleared and cultivated, mills were erected, roads opened, and bridges built, the territory receiving a large influx of immigrants from the Eastern and Middle States who had soon began to reap the fruits of well-directed industry. Hemp, flax, cotton, and silk were grown; spinning wheels and looms were introduced; and domestic manufactures made great advances.† The

Connecticut Reserve had been transferred to the United States, and by the latter jurisdiction was vested in the established territorial polity of the northwestern territory. The forts, which had so long withstood the onslaught of the savage, now fell into neglect and in time disappeared. Zanesville is described at this time as "a wilderness house of entertainment, near which were encamped a few white hunters, surrounded by Indian wigwams, occupied by the native savages, employed in hunting, fishing, trading and drinking," and Columbus had witnessed the erection of a large number of substantial houses. Detroit was the centre of a cluster of settlements, and, with those on the Maumee and other streams, formed part of the northwestern territory. During the summer of 1798 a census was taken, which showed that there were more than 5,000 free white males in the territory. As this number of inhabitants entitled the people to the second class of territorial government, Governor St. Clair, on October 29, 1798, issued a proclamation for the election of representatives to serve as a lower house. Of the twenty-two representatives elected, sixteen were from Ohio, three from Michigan, two from Illinois, and one from Indiana.* Monette says: "Those elected to serve in this legislature were such as are not excelled in point of talent by the members of any legislative

* Dunn, *Indiana*, pp. 283-284; McMaster, vol. ii., pp. 481-482. For the debate in Congress, see *Annals of Congress*, 6th Congress, 1st session, pp. 537-538, 625-626. The petition for redress of grievances and other documents are in *Annals*, pp. 1311-1320. For text of act, see *ibid.*, pp. 1515-1522.

† Sparks, in his *Expansion of the American People*, chap. xiii., gives a good short description of pioneer life.

* Dunn, *Indiana*, p. 274; King, *Ohio*, p. 269; Hinsdale, *The Old Northwest*, pp. 295-296.

body in the United States, even at this late day." Representatives were required to be citizens of the territory for three years previous, actual residents or past residents for three years in the districts selecting them, and to be possessed in their own right of a fee simple of 200 acres of land in it. For the right to vote, it was necessary that the citizens possess 50 acres of land and that they should have been citizens and residents of their districts for at least two years. In January of 1799 this House of Representatives met at Cincinnati and elected two persons, who, together with the five appointed by the President, were to form the governor's council. This done, the meeting of the House was adjourned until the following September.*

We have previously mentioned the efforts made by William Henry Harrison, who had been elected by the territorial legislature in October of 1799 the first delegate from the territory to Congress,† to induce Congress to fix upon a systematic plan for the sale of unoccupied lands. On May 7, 1800, an act of Congress was approved by which the western part of the territory was separated by a line due north from the confluence of the Great Miami and the Ohio to its intersection of the parallel of latitude

passing through the southern extremity of Lake Michigan. Detroit was thus left to the old northwestern government,‡ but the territory from the Great Miami westward to the Mississippi and northwestward from the Ohio to the sources of the Mississippi and Lake Superior, was included in the newly organized territory, which was called Indiana Territory. Harrison was appointed first governor and superintendent of Indian affairs.† At that time there were scarcely more than 5,500 white people throughout the entire region, and the settlements were few and far between, consisting chiefly of Clark's grant at the source of the Ohio, the old French settlement at Vincennes on the Wabash, and one on the Mississippi, from Kaskaskia to Cahokia. The eastern section of the old northwest territory was then renamed the Territory of Ohio, part of which is now the State of Ohio.‡

* *United States Statutes-at-Large*, vol. ii., pp. 58; Cooley, *Michigan*, p. 133; Slocum, *The Ohio Country*, pp. 157-158.

† Montgomery, *Life of Harrison*, p. 69 *et seq.*; D. G. McCarty, *Territorial Governors of the Old Northwest*, p. 77; Hinsdale, *The Old Northwest*, p. 297; Dunn, *Indiana*, pp. 282-283, 294. The text of the act will be found in Thorpe, *Federal and State Constitutions*, vol. ii., pp. 964-965; *Annals of Congress*, 6th Congress, 2d session, App., pp. 1498-1500. See also Gannett, *Boundaries of the United States*, p. 111 *et seq.*; *Magazine of Western History* (September, 1886), p. 618. For the debates in Congress, see *Annals of Congress*, 6th Congress, 1st session, pp. 583, 632, 649. In this connection see also Farrand, *The Legislation of Congress for the Government of the Organized Territories of the United States*.

‡ King, *Ohio*, pp. 276-277.

* King, *Ohio*, pp. 269-270.

† Dunn, *Indiana*, pp. 277-278; Montgomery, *Life of W. H. Harrison*, pp. 63-65.

CHAPTER XX.

1789-1800.

SOCIAL AND ECONOMIC CONDITIONS.

Population — Principal cities — Conditions in the West — Routes of travel and transportation — Discomforts of travel — Economic conditions — Agriculture — Manufactures — Labor — Commerce — Banking — Speculation in land — Domiciles — Diet — Prejudice against theatres, horse-racing, and cards — Recreations in the South — Social life in the North — Celebration of Washington's birthday — Social customs in the South — Religious conditions — Educational progress — Political life.

In 1790, when the first census was taken, the total population of the country was 3,929,214, which by 1800 had increased to 5,308,483. About half of this number lived on both sides of the Potomac and fully one-fifth was black.* The increase in population during the decade had been due chiefly to the birth rate, for the independence of the United States had severed many of her closest bonds with European countries, and emigration had consequently been checked. Though many attempts had been made to attract emigrants to this country, it is estimated that the average annual influx of foreigners did not exceed 4,000, nor did it become considerable until after the War of 1812. About 95 per cent. of the inhabitants lived in the large cities of the Atlantic Coast. The largest State was Virginia, with a population of 747,610; then came Pennsylvania, with 434,373; and next North Carolina, with 393,751; Massa-

chusetts, with 378,787; New York, with 340,120; and Maryland, with 319,728.

The largest cities were in the North. Philadelphia numbered 42,520 inhabitants in 1790 and 69,403 in 1800. It was a city of plain, sober, substantial homes, the wealthy merchants owning dwellings of brick, with white marble facings and foundations, ample dormers and doorways, easy staircases, and open chimneys. The streets of the city ran at right angles and had no curbstones, though trees had been set out at regular intervals and the pavements were dotted by posts to mark the boundaries. The frequent epidemics of yellow fever had created a high regard for sanitary precautions and cleanliness; the city was well paved and partly drained, was supplied with water in wooden pipes, and was the best lighted town in America. State House Square was the fashionable promenade and Spring Garden was a favorite place for flying kites. A Schuylkill aque-

* Henry Adams, *History of the United States*, vol. i., p. 1.

duet had lately been projected, but pumps still supplied drinking water and casks were commonly set out to catch rain water for washing and other domestic uses. At Third and High streets were the old jail and whipping-post. Under the direction of David Rittenhouse, the new mint had recently begun operations. The city drew its sustenance from the rich farming region of central and eastern Pennsylvania, and the export of grain was its chief commercial activity. Philadelphia was also the financial centre of the country, it being the place where the Bank of the United States was located.

After the Iroquois had been dispossessed, the central part of New York began to assume a more civilized aspect, chiefly through the agency of land companies, who, in order to develop their properties, brought in large companies of emigrants and here and there gradually established small towns. The shore of Lake Erie was still unsettled. Buffalo had not been laid out, Indian titles had not been extinguished, Rochester was not yet in existence, and Onondaga County still contained less than 8,000 persons. In 1799 Utica contained but 50 houses and Albany was still a Dutch city, having grown but little in the decade from 3,498 inhabitants to 5,289.

Though New York was European in its habits, the traveler needed to go but a few miles from the Hudson to find a wilderness like that of Ohio

and Tennessee. In most material respects this State was behind those of New England. Outside of New York City, there was both less wealth and less comfort. Save in numbers, this city had not advanced much more rapidly than the country; in 1790 it had 33,131 inhabitants and by 1800 its population had grown to 60,489. The streets of New York City were badly paved, underdrained, and filthy. Though the Manhattan Company had laid some wooden pipes for a water supply, no sanitary regulations were enforced, and every few years the city was visited by a yellow fever epidemic. No day police existed, and the night patrol consisted of two captains, two deputies, and seventy-two men. The chief improvements in the city were the brick sidewalks and curbstones, which had been laid down after the various fires which had devastated the city.

Boston was beginning to manifest signs of stagnation, her population having increased only 7,000 in the decade (from 18,038 to 24,937). That city had not yet become the manufacturing centre of New England, and such emigrants as arrived at the port tarried not in the city, but left immediately for the interior. Boston even lagged behind Baltimore, which had then awakened to considerable activity, advancing in population from 13,503 in 1790 to 26,114 in 1800.

In appearance Boston resembled an old English market town. The sidewalks were paved, like the streets,

with round cobblestones and were separated from the roads only by posts and gutters. The streets were almost unlighted at night, there being but a few oil-lamps here and there. Police hardly existed, and the system of taxation was defective. The town was governed by selectmen elected by town-meetings, and the jealousy of the selectmen in granting power was exceeded only by their unwillingness to spend money. The extraordinary prosperity caused by the French wars opened to Boston a new career. Her population and wealth were doubling; the exports and imports of New England were surprisingly large, her shipping being greater than that of New York and Pennsylvania combined. But Boston was soon to learn again the fickleness of foreign commerce in bestowing riches.

Richmond, the largest town in Virginia, numbered but 3,761 inhabitants in 1790 and 5,737 in 1800; the only other towns in Virginia numbering more than 2,000 were Norfolk, Petersburg, and Alexandria. In 1790 Charleston, South Carolina, numbered 16,359 inhabitants and in 1800, 18,924. It was the social and commercial capital of the vicinity. Nowhere in the Union were intelligence, wealth, and education greater in proportion to numbers than in Charleston. Nor was it behind the North in public improvements. A canal was nearly completed which brought the Santee River to its harbor, and a road to

Tennessee was planned, which would place the whole interior within her reach. Nashville was nearer to Charleston than to any other seaport of the Union, and Charleston lay nearest to the rich trade of the West Indies. Not even New York had a brighter future than the southern city, which already possessed abundant banking capital, enterprise, intelligence, the traditions of high culture, and aristocratic ambition—all supported by slave labor. North Carolina had no town of more than 2,000 people. Savannah, Georgia, was still a very small town, numbering only 5,166 inhabitants in 1800. The interior of Georgia was still undeveloped, and it was not until the cultivation of cotton became the established industry in the South that the State possessed an industry of any greater importance.

The interior had not advanced greatly in civilization, though its population had largely increased. The West was practically impenetrable, save for three wagon roads which crossed the Allegheny Mountains—one from Philadelphia to Pittsburg, another from the Potomac to the Monongahela, and a third through Virginia southwestward to the Holston River, and Knoxville in Tennessee, with a branch through the Cumberland Gap into Kentucky. By these roads, by trails less passable, and by waterways, between 400,000 and 500,000 persons had invaded the country beyond the Alleghanies. By the cen-

sus of 1800, that population in the West was as follows:

States	White.	Colored.	Total.
Ohio	45,028	337	45,365
Indiana	5,343	298	5,641
Kentucky	179,873	41,082	220,955
Tennessee	91,709	13,893	105,602
Mississippi	5,179	3,671	8,850
Total	327,132	59,281	386,413

But the West of those days was not the West of the present. The western part of New York and Pennsylvania and all the country west of the Alleghanies was considered the west in 1800. At Pittsburg and on the Monongahela existed settlements, already old, numbering between 70,000 and 80,000 persons — Pittsburg itself, however, contained but 1,565 inhabitants in 1800. On the Ohio River the settlements, though small, had become important. As stated above, Kentucky contained nearly 180,000 whites and more than 40,000 negroes, thus being the largest community west of the mountains. Louisville at that time numbered but 359 inhabitants. Scattered over Tennessee were more than 105,000 persons, of whom nearly 92,000 were white. Neither Memphis nor Nashville had as yet been founded. We find no census returns for the former before 1850, when she had a population of 8,839. The people of Nashville, however, began to be enumerated in 1830, when that city had 5,566 inhabitants. Less progress had been made in the territory north of Ohio. At Marietta was a small New

England colony; Cincinnati was a struggling little village of a few hundred persons; between Cincinnati and Marietta lay Chillicothe; while Cleveland, Toledo, and Dayton had not yet sprung into existence. Not before 1810 did Cleveland have a population of over 600, though for a number of years its site held a few cabins.*

In the far West lay the Indian country, which was split in half by the wedge of white settlements, with its apex at Nashville and its flanks covered by the Ohio and Tennessee rivers. In the northern half — consisting of the later States of Wisconsin, Michigan, Illinois, Indiana and a third of Ohio — lived the Wyandottes, Shawnees, Miamis, Kickapoos and other tribes, together capable of sending into the field 5,000 warriors. In the southern half — consisting of Mississippi, Alabama, and the western parts of Georgia, Tennessee and Kentucky — were the powerful confederacies of Creeks, Cherokees, Chickasaws and Choctaws. Though Georgia had a population of 162,686, of whom 102,261 were white, she was practically at the mercy of the Indians, who, by concerted attack, might easily have driven back the white population toward the ocean or across the Savannah River.

So far as physical problems were concerned, America had changed but little in the last half century, and this is particularly true of transportation

* For a description of pioneer life, see Sparks, *Expansion of the American People*, chap. xiii.

facilities. The roads were few and poorly constructed, for the inhabitants of the land through which these roads passed were too much occupied with gaining a livelihood to devote time to road-making, and were too poor to undertake their construction, even had the inclination existed. Even by water, along the seaboard, communication was as slow and almost as irregular as in the colonial days. The voyage to Europe was comparatively more comfortable and more regular than the voyage from New York to Albany or through Long Island Sound to Providence. No regular packets then plied between New York and Albany, and passengers were compelled to wait until a sloop was advertised to sail; even then they were expected to provide their own bedding, utensils, and supplies. Compared with river travel, the sea was an easy and safe highway. The rivers penetrating the interior were unsafe, liable to be treacherous because of freshets, and made both dangerous and impassable by drought. Through the mountainous gorges of the Susquehanna the produce of western New York first found an outlet; the Cuyahoga and Muskingum were the first highways from the lakes to the Ohio; and the Ohio itself, with its tributaries (the Cumberland and the Tennessee) marked the lines of Western emigration.

The project of bringing New England nearer to Virginia and Georgia had not advanced, even with the aid

of a direct ocean highway. In proportion to their wealth and population but little more commercial intercourse had developed between the colonies after they had become independent than they had maintained in colonial days. The traveler found even the shortest journey a considerable task. A fair highway stretched from Boston to New York, and between these two cities light stage coaches carried passengers thrice a week, the journey consuming three days. Between New York and Philadelphia coaches ran every week day, consuming the greater part of two days on the road. The road between Paulus Hook (the modern Jersey City) and Hackensack was declared by the newspapers to be as bad as any part of the route between Maine and Georgia. Between Philadelphia and Baltimore the road was tolerable, but from the latter city to Washington it ran through forests, and the drivers considered themselves fortunate if they reached the capital without being ditched. Beyond the Potomac the roads became steadily worse, until south of Petersburg even the mails had to be carried on horseback. A stage coach ran between Charleston and Savannah, and this seems to have been the only public conveyance in the three southernmost States.

The stage coaches were side affairs, holding about twelve persons crowded together. Even in pleasant weather, when the roads were at their best, the jolting of these vehicles occasioned

much discomfort to their passengers; but when spring rains drew the frost from the ground, the roads became nearly impassable; and when the rivers froze, in winter, a serious peril was added, for until the ice was thick enough to bear the weight of a coach and horses the river must be crossed in open boats—an affair of hours, at best, and not always free from fatal accidents. In the South the perils of travel formed almost an insuperable barrier. Ever few miles the traveler found himself halted by a river, liable to sudden freshets and rarely bridged. The inconveniences of travel were not at an end when the road-side inn was reached, for at that place the traveler was lucky if he could secure a bed for himself, to say nothing of a room. Many of the rooms held from six to ten beds. The food procurable at these places was plain though substantial, and the cooking not always of the best. In the larger towns, most particularly those in New England, there were many inns, and a few hotels modelled after the European establishments, which were both convenient and comfortable.

One of the greatest obstacles to travel in those days was its excessive cost. In the Northern States the usual charge was six cents per mile by stage. One passenger relates that it cost \$6 to go from Philadelphia to Baltimore, with extra charges of \$2.25 a day at the inns *en route*. It cost this traveler \$21 to go 200 miles.

Stage routes were little used for

heavy traffic where cheaper means of transportation could be had. Except the highway to Pittsburg, no road served as a channel of commerce between different regions of the country. This shortcoming turned the attention of progressive men to the construction of canals, and before the end of the century several had been started. The chief value of interstate communication by land lay in the postal system. There was one general mail route from Portland (Maine) to Louisville (Georgia), the journey consuming twenty days. Between Portsmouth (New Hampshire) and Petersburg (Virginia) the contracts required daily service, except Sundays. Between Petersburg and Augusta the mail was carried three times a week. There was a branch line from New York to Canandaigua, the journey taking ten days; another branch went from Philadelphia to Lexington in sixteen days and to Nashville in twenty-two. Altogether, there were then 20,000 miles of post road, with 900 post offices.

The majority of the people were engaged in farming. Land was cheap, the price of labor was high, and none were crowded for room. The European eagerly grasped the opportunity of gaining a livelihood in a country where all were on a footing of equality, and where he might own the fee of his farm instead of renting the land from a peer or a peer's son, and so devote the chief fruits of his labors to supporting others in idleness. To

the emigrant, the Middle States offered the greatest inducements. In New England the land was so parcelled out among the population that there were comparatively few large estates, and the price of that which was for sale was high, for which reason even her own citizens had begun to emigrate to the West. In the South the climate was unfavorable to toil, while the Far West offered only the greatest hardships, coupled with the danger of death at the hand of prowling savages. Central New York was being rapidly settled by New England emigrants, but of all sections Pennsylvania seemed the most favorable to the emigrant farmer. The emigrants, chiefly from Ireland and Germany, unable to pay their passage across the water, hired themselves out to those who were willing to pay their transportation charges. After serving their terms at menial service, these redemptioners usually looked about for a suitable spot on which to settle and lay out a farm. In many places land could be procured at nominal cost, for the land speculators were anxious to rid themselves of investments which too frequently proved failures. Farms rarely exceeded 300 acres in extent, 150 acres being a good average. Discreet purchasers insisted upon fertile soil, proximity to a good market, and—if such were possible—water connection with some prosperous port.

Economic conditions had not greatly changed in the last decade. In 1793

the Treasury Department prepared a handbook setting forth the conditions of the United States, and Thomas Cooper, in his *Information Respecting America*, gives a flattering picture of American life. The chief source of our wealth at that time was land and landed products, though there was already considerable commerce. More ships were built in the United States in 1792 than in any former year since the settlement of the colonies. A large tonnage was engaged in the coasting trade and in the cod and whale fisheries. At that time, though luxuries were not unknown, the imports consisted chiefly of articles contributing to comfort; but importation had not kept abreast of the advance in population and wealth. The principal exports were raw materials used in manufactures, breadstuffs and working animals. As the years passed, conditions naturally improved.

Once in possession of his land, the farmer began to clear it, removing the small trees and underbrush, and finally erecting a small log cabin, roughly put together, the interstices stopped with rails, calked with straw or moss and daubed with mud, while the roof consisted of thin staves fastened on by heavy poles. For a few years life was rough, lonely and monotonous. During the spring and summer it consisted of planting and reaping the harvest, and in the fall and winter of shooting fur-bearing animals, whose skins were bartered at the nearest

store for clothing, tea, sugar, and other household necessities. Gradually the lone pioneer came to have neighbors. Larger spaces were cleared and devoted to the raising of such products as yielded a pecuniary return, and saw-mills and other small manufactories came to be established. Townships rapidly sprang up, industries began to flourish; the boys and girls married and population quickly increased. The pioneer farmers were often ingenious in their pursuit of gain, bringing into play many of the inventive traits which later so rapidly placed their country among the foremost nations of the earth.

Wheat was raised everywhere, save on the coastal plains of the far South. The rural communities were engaged chiefly in marketing food products, tobacco and lumber. New England still exported large quantities of timber, boards, staves and masts, and the fishing interest was still large. The best region for the raising of wheat was in the Middle States, and the upper parts of Maryland and Virginia. The tobacco industry had suffered severely from commercial restrictions, and the Southerners loudly complained that this great industry was handicapped, while the commercial interests of the North were receiving encouragements from the government. The chief exports from North Carolina were naval stores and pork, while from South Carolina and Georgia large quantities of rice and indigo were exported. At this time the cot-

ton industry had already passed its experimental stage, the only hindrance to its more rapid development and advance being the necessity of removing cotton seed by hand. In 1793, however, this difficulty was overcome by Eli Whitney's invention of the cotton gin.

The machinery of production showed no radical difference from that of past ages. The plow was rude and clumsy, the cradle had not yet come into general use, and in Virginia grain was still trodden out by horses. Indeed, threshing-machines and scientific plows were considered novelties. Stock was ill-cared for, some running wild; cattle was left to feed on what pasture they could find, and even in New England the stock was not housed until the severest frosts—on the theory that exposure hardened them. Except among the best farmers, drainage, manures, and rotation of crops were uncommon.

Manufactures had developed but slowly in the country during the Revolutionary era. The people thought of little else than military affairs. Power machinery, though its exportation from England had been prohibited, had gradually come to the country, and its introduction in America slowly but surely revolutionized industrial processes. The increase in the production of cotton stimulated the manufacture of cotton goods, and in the last decade of the Eighteenth century the cotton manufactures of the New England States became exceed-

ingly important. Among other articles (made chiefly by hand) were furniture, hats, shoes, nails* and other implements made of iron, and numerous utilities used in domestic and commercial life.† Coarse clothing, pottery, maple sugar, and materials for ship-building were also turned out — chiefly hand-made. Factories were small, employing little capital. Factory owners generally located their buildings near good water-power and within easy reach of the market towns. Large mill-towns, with a distinctive mill population and factory pursuits strictly divided, were as yet unknown.‡

There were many manufactures in New England, but none on a large scale, household industry still being depended upon to feed and clothe the people. Their whale-oil, salt fish, lum-

ber and rum were principally sent abroad; but there was a considerable coast trade in turner's articles, shoes, nails, home-made linens and cloths, cheese, butter, etc., much of which being sent to Norfolk and other Southern ports. Two or three small mills spun cotton with doubtful success, but the New England States could not hope to compete with England in the cheapness and variety of ordinary manufactures. In and about Philadelphia flourished several important industries, such as iron-works, paper and gunpowder factories, and manufactures of pleasure carriages.

Further south, the Shenandoah Valley rivalled Pennsylvania and Connecticut in richness and skill of husbandry, but even its agriculture had suffered from the competition of Tennessee and Kentucky and from the emigration which had drawn away fully 100,000 people. The land was no longer as productive, for the farmers had not yet learned how to replenish the soil. Even Jefferson, one of the most progressive of the Southern planters, complained that he could get but six or eight bushels of wheat per acre and had been forced to abandon the more profitable cultivation of tobacco. The cultivation of tobacco had been almost the sole object of land-owners, and, even where the lands were not exhausted, a bad system of agriculture and the force of habit prevented improvement. Regarding the more southerly regions, Washington said:

* Jefferson was engaged in the business of nail making and says: "I now employ a dozen little boys from 10 to 16 years of age, overlooking all the details of their business myself. * * * My new trade of nail making is to me what an additional title of nobility or the ensigns of a new order are in Europe."—Ford's ed. of Jefferson's *Writings*, vol. vii., p. 14.

† Schouler, *United States*, vol. i., p. 240.

‡ For commercial and industrial history, see Timothy Pitkin, *Statistical View of the Commerce of the United States*; Thomas Seybert, *Statistical Annals of the United States of America, 1789-1818*; Teneh Coxe, *View of the United States of America*; J. L. Bishop, *History of American Manufactures*, vol. ii., chap. 1; W. R. Bagnall, *Textile Industries of the United States*; *Ibid.*, *History of the Early Development of Cotton Manufactures of the United States*; Samuel Batchelder, *Introduction and Early Progress of Cotton Manufactures in the United States*; B. F. French, *History of the Iron Trade in the United States, 1621-1857*; J. M. Swank, *History of the Manufacture of Iron in all Ages*.

"The uplands of North and South Carolina and Georgia are not dissimilar in soil, but as they approach the lower latitude are less congenial to wheat and are supposed to be proportionably more unhealthy. Towards the seaboard of all the Southern States, and farther south more so, the lands are low, sandy and unhealthy; for which reason I shall say little concerning them, for as I should not choose to be an inhabitant of them myself, I ought not to say anything that would induce others to be so. * * * I understand that from thirty to forty dollars per acre may be denominated the medium price in the vicinity of the Susquehanna in the State of Pennsylvania, from twenty to thirty on the Potomac in what is called the Valley, * * * and less, as I have noticed before, as you proceed southerly."

North Carolina was, relatively, among the poorest of the States. Alexander Wilson, the Scotch ornithologist, a confirmed grumbler but a shrewd judge, painted the following picture of that State:

"The taverns are the most desolate and beggarly imaginable; bare, bleak and dirty walls, one or two old broken chairs and a bench form all the furniture. The white females seldom make their appearance. At supper you sit down to a meal the very sight of which is sufficient to deaden the most eager appetite, and you are surrounded by a half-a-dozen dirty, half-naked blacks, male and female, whom any man of common scent might smell a quarter of a mile off. The house itself is raised upon props four or five feet, and the space below is left open for the hogs, with whose charming vocal performances the wearied traveller is serenaded the whole night long."

Nevertheless the Carolinas possessed one new element of wealth which promised much for their inhabitants. Watt's steam engine had been applied in England to spinning, weaving and printing cotton, and an immense demand had arisen for that staple. The invention of the cotton gin added a sudden impulse to the cotton industry; land which had been

considered worthless acquired new value, and in 1800 every planter was growing cotton, buying negroes, and breaking fresh soil. But again these advantages were offset by serious evils. The sun was hot, the sea coast was unhealthy—at certain seasons even deadly to white settlers,—and the presence of nearly 100,000 negro slaves seemed to blight the future of the 30,000 white inhabitants.

In the North hired labor was employed generally, though the system of indentured servants had not yet entirely disappeared. There were few skilled laborers, as the rural nature of the country tended more to develop agriculturalists than artisans. In the South slave labor had taken the place of all the lower forms of hired labor, though the slaves were at best only about three-fourths as efficient as the white laborers. The "New Negroes" from Africa were totally ignorant of the work they were expected to perform. At first the slaves were bound out in small numbers, but as the cotton industry developed and as large plantations became devoted to its cultivation, the slave population greatly increased. The increase in population due to the importation of slaves had a tendency to reduce purchasing ability, for slavery to a great extent precluded the existence of a wage-earning class. The slaves merely required enough to keep them alive and to clothe them; hence there was little market for anything save the barest necessities. As the large plantations

practically constituted communities in themselves, the purchasing of supplies was conducted through commission merchants in distant places, and thus there was little local trade, which resulted in commercial stagnation in the South.

In the meantime the retail trade in the North was proceeding along usual lines. The commercial classes had grown steadily and were in close alliance with the financial classes. Trade had become highly prosperous and gradually began to assume the place formerly held by agriculture, so that when the merchant classes attained wealth the conviction became deep-rooted that such wealth had not been secured by honest means.

Commercial relations with England were practically severed. A bill, introduced by Pitt in Parliament, in 1783, granting trade concessions to the United States, had failed of passage. In 1791 some slight concessions were obtained, but these did not greatly relieve the situation. The Jay treaty, however, furthered the commercial interests considerably. Each nation might trade freely with the other, subject to the ordinary custom duties and other commercial regulations, and American merchants were permitted to trade freely with the British East Indies. Imports and exports increased by leaps and bounds. In 1795 the imports from Great Britain were valued at \$23,313,000 and in 1801 at \$39,519,000. During the same period the exports increased from \$6,324,000

to \$30,931,000. On the other hand, trade with the French West Indies experienced a considerable decline, due chiefly to the turbulent conditions in these islands and the rapacity of British war ships. In 1790 the total imports were \$23,000,000; in 1795, \$69,756,268; and in 1801, \$111,363,511. In 1790 the total exports were \$20,205,156; in 1795, \$47,989,472.44, and in 1801 \$93,020,513 (though of the exports \$25,000,000 in 1795 and \$46,000,000 in 1801 were reexports of foreign products).^{*} In 1800 the value of exports from New York was but \$14,000,000, and the net revenue from imports in 1799 was \$2,373,000, as against \$1,607,000 collected in Massachusetts. The exports from Pennsylvania amounted to \$12,000,000, the custom house receipts amounting to \$1,350,000. The exports from South Carolina were nearly equal in value to those of Pennsylvania or Massachusetts, consisting chiefly of cotton; the imports were equally large, and Charleston might expect soon to rival Boston, New York, Philadelphia or Baltimore. Whereas but 200,000 pounds of cotton had been sent abroad in 1791, more than 20,000,000 pounds were sent in 1801, and by 1803 the quantity was doubled.

Lack of capital had greatly handicapped both commercial and indus-

^{*} See the reports in *American State Papers, Commerce and Navigation*, vol. i., pp. 23-43, 319-342, 488-489; and the statistical tables in the *Annual Review of the Foreign Commerce of the United States*, issued by the government.

trial enterprise. The coin money in use was of all varieties and descriptions, chiefly because banks had not yet been established on a sound commercial basis. By 1801, however, a number of banks of issue had been established. In 1790 there were four banks with \$2,500,000 capital, \$9,000,000 in metallic currency, and \$2,500,000 in circulation. By 1801 their number had increased to thirty-one, with \$22,400,000 capital, \$17,000,000 in metallic currency, and \$11,000,000 in circulation.

Within ten or fifteen years before 1800, three banks had been established at Boston to supply her commercial needs. One of these was a branch of the Bank of the United States, the two others being local banks, with a capital of \$1,600,000, of which the State had subscribed \$400,000. In the smaller New England towns were a number of small banks, representing in all about \$2,500,000 capital. In New York City, outside of the branch of the Bank of the United States, there were but two banks, capitalized at about the same amount as those of Boston. At Philadelphia were the Bank of the United States, with a capital of \$10,000,000 and other private banks, with a capital of approximately \$5,000,000 more. There was a bank at Alexandria (Virginia), capitalized at \$1,500,000, but between Washington and Charleston (South Carolina) none was to be found, save the branch of the Bank of the United States at Norfolk.

The hostility to banks was so widespread as to offer a serious obstacle to enterprise. Jefferson's hostility to capitalistic enterprises was shared by a great majority of the Southerners and by a large minority of the Northerners. For seven years the New York Legislature refused to charter a banking company in the State; when a charter was obtained in 1791 and the Bank fell into Federalist hands, Aaron Burr succeeded in obtaining banking privileges for the Manhattan Company only by a subterfuge—the assertion that the company was formed to furnish a supply of fresh water to New York City.

Due to the rapid increase of business enterprises, the rate of interest was often very high, sometimes reaching 10 per cent. While the cheap rates obtainable in Holland for a time tended to keep down the rates in America, when that country became involved in the general European war, money could no longer be secured, and the rates in the United States rose to the highest point known till then. Speculation also had tended to check business enterprise, for it resulted in disastrous panic. The various land companies had incurred pecuniary obligations in anticipation of a large volume of trade, but these obligations could not be met when the expected business did not materialize. As a result, large numbers of people, including Robert Morris (who had engaged in land speculation in the West and in vast real estate operations in

Washington) and many other wealthy men were forced into bankruptcy. Morris, being unable to realize on his land holdings, was unable to save himself from a debtor's prison. This panic continued but a short time, however, and by the end of the century business had assumed a normal condition. As a rule American capital was absorbed in shipping or agriculture, whence it could not be suddenly withdrawn. No stock exchange was yet in existence, for there were few stocks.

The houses occupied by people of means were generally large and comfortable, but the poorer classes occupied the rude dwellings which had characterized frontier life during the colonial period. In the South the wealthy class imitated the country gentlemen of England, while the wealthy merchants of the North followed the city life of London and Paris. Fifty or a hundred miles in the interior more than half the houses were log cabins; but few of them afforded the luxury of glass windows. Throughout the South and West there was little attempt at luxury in home-building, while in New England the ordinary farmhouse was poorly built and neither spacious nor warm. The farmer's family still wore homespun cloth; the hats were made by the village hatter; the clothes were home-made, as were the shirts, socks, and nearly all other articles of dress. Hence came an air of rusticity which distinguished country from town. Sometimes the only shelter of the pio-

neer was a roof of wild cucumber tree bark, laid across poles. Even those who boasted of a log house had few comforts. The log cabin was a square structure, frequently with but one room, and a "lean-to" outside. When a member of the family was married, another cabin was constructed a few feet away from the old and facing its front. As the intervening space was covered, this was called a "double cabin."*

Except the slaves, the laboring classes enjoyed an ample supply of the necessities of life. The Duc de Liancourt describes what he saw in Pennsylvania as follows:

"There is a contrast of cleanliness with its opposite which to a stranger is very remarkable. The people of the country are as astonished that we should object to sleeping two or three in the same bed and in dirty sheets, or to drink from the same dirty glass after half a score of others, as to see one neglect to wash one's hands and face of a morning. Whiskey diluted with water is the ordinary country drink. There is no settler, however poor, whose family does not take coffee or chocolate for breakfast, and always a little salt meat; at dinner salt meat, or salt fish, and eggs; at supper again salt meat and coffee. This is also the common regimen of the taverns."

Salt pork three times a day was considered an essential part of American diet, and a family was held "to be in a desperate way when the mother [could] see the bottom of the pork barrel." On the main lines of travel fresh meat and vegetables were served at all meals, but as Indian corn was the national crop, that (in various

* Sparks, *Expansion of the American People*, p. 157.

forms) was eaten three times a day. The rich alone could afford fresh meat. Ice chests were unknown. In the country it was impossible to keep meat fresh, while the hog cost nothing to keep and very little to kill and preserve. Thus the ordinary rural American was brought up on salt pork and Indian corn, and the effect of this diet showed itself in dyspepsia. Volney says:

"I will venture to say that if a prize were proposed for the scheme of a regimen most calculated to injure the stomach, the teeth and the health in general, no better could be invented than that of the Americans. In the morning at breakfast they deluge their stomachs with a quart of hot water, impregnated with tea, or so slightly with coffee that it is mere colored water; and they swallow almost without chewing, hot bread, half-baked, toast soaked in butter, cheese of the fattest kind, slices of salt or hung beef, ham, etc., all of which are nearly insoluble. At dinner they have boiled pastes under the name of puddings, and the fattest are deemed the most delicious; all their sauces, even for roastbeef, are melted butter; their turnips and potatoes swim in hog's lard, butter or fat; under the name of pie or pumpkin, their pastry is nothing but a greasy paste, never sufficiently baked. To digest these vicious substances they take tea almost instantly after dinner, making it so strong that it is absolutely bitter to the taste, in which state it affects the nerves so powerfully that even the English find it brings on a more obstinate restlessness than coffee. Supper again introduces meat or oysters. As Chastellux says, the whole day passes in heaping indigestions on one another; and to give tone to the poor relaxed, and wearied stomach, they drink Madeira, rum, French brandy, gin or malt spirits, which complete the ruin of the nervous system."

Travelers complained because they were lodged at the tavern in a room with ten or eleven others—a custom which extended through the whole country from Georgia to Massachusetts. The Americans were neater, however, than their critics would al-

low. In reply to such charges, Cobbett said: "You have not seen the Americans, you have not seen the nice, clean, neat houses of the farmers of Long Island, in New England, in the Quaker counties of Pennsylvania; you have seen nothing but the smoke-dried ultra-mountaineers." Again, Felix de Beaujour, a severe critic, says:

"American neatness must possess some very attractive quality, since it seduces every traveller; and there is no one of them who, in returning to his own country, does not wish to meet again there that air of ease and neatness which rejoiced his sight during his stay in the United States."

In New England Puritan morals still held sway in all social intercourse, and, as already stated, were responsible for the absence of theatres and similar amusements in the community. Even in the large centres of the country indoor public entertainments were but moderately patronized. There were musical concerts, aerobatic performances, exhibitions of live animals, wax-work shows, dancing assemblies, etc. But upon actors and theatrical performances the law laid a heavy hand, and not until after 1789 were actors treated as better than low vagrants. The greatest liberality was shown them in New York, and the company of actors which had introduced stage performances in the colonies lost no opportunity, on reappearing in 1785, to demonstrate their Whiggish zeal by bringing out in New York the first American play ever performed ("The Contrast"—by Royall Tyler after-

ward chief justice of Vermont). In Pennsylvania Quaker opposition to theatricals was soon overcome, the profession becoming so profitable there that in 1793 a new theatre was erected in Chestnut Street capable of seating 2,000 people. It was in Boston, however, that the greatest opposition was encountered. There the legislative ban still continued, but in 1791 an effort was made at a public town meeting to instruct the Boston representatives in the General Court to use their best efforts to secure a repeal of the prohibitory act. Samuel Adams, "that grand old Calvinist," spoke on the anti-theatrical side; but popular opinion was against him, and the representatives were given their instructions. The country members of the General Court, however, were in the majority and, as they sympathized but little with the theatrical fraternity, the demonstration had little effect on the Legislature. After the Legislature adjourned, the actors opened an exhibition room in Board Alley, where they delivered "moral lectures" to crowded houses. When the next Legislature convened, Governor Hancock called the attention of that body to this barefaced violation of the statute, and the sheriff was instructed to stop the play and arrest the actors. The audience expressed their disapproval of this action by hissing the officers and by refusing to accept the return of their money. The next day the actors were discharged owing to a technical defect in the war-

rant, yet the lectures were for some time discontinued. But so determined was Boston sentiment that in 1793 the obnoxious act was repealed. Thus ended theatrical proscription in America.*

Not only was the theatre considered immoral in New England, but Puritan feelings still forbade the running of horses. Even whist was regarded as an unhappy dissipation. Dwight says:

"The principal amusements of the inhabitants were visiting, dancing, music, conversation, walking, riding, sailing, shooting at a mark, draughts, chess, and unhappily in some of the larger towns, cards and dramatic exhibitions. A considerable amusement is also furnished in many places by the examination and exhibitions of the superior schools; and a more considerable one by the public exhibitions of colleges. Our countrymen also fish and hunt. Journeys taken for pleasure are very numerous, and are a very favorite object. Boys and young men play at foot-ball, cricket, quoits, and at many other sports of an athletic cast, and in the winter are peculiarly fond of skating. Riding in a sleigh, or sledge, is also a favorite diversion in New England."

In the South recreation was more diversified and the people were of a more sport-loving nature, horse-racing and cock-fighting being followed with equal ardor by all classes. Charleston was the centre for horse-racing, its "Jockey Club" being its leading social organization. Horse-racing had been a popular amusement in Virginia and Maryland long before the Revolution. English running horses were imported and for a long time the stock was kept pure, but the Revolution checked the habit and de-

* Schouler, *United States*, vol. i., pp. 247-249.

teriorated the breed. With returning prosperity, however, the Southerner showed that the instinct was stronger than ever. One of the vices with which travelers constantly charged the Virginians was the rough-and-tumble fight, which was described as particularly brutal, neither kicking, tearing, biting or gouging being forbidden by the laws of the ring.*

Both in New York and Philadelphia social life had been gay, while these cities were the seats of government. A large number of the Congressmen were members of the most prominent and wealthy families in the country, and entertained lavishly. One of the most noted women of the time was Mrs. Henry Bingham, wife of the United States Senator, an invitation to whose balls and entertainments was considered a passport to good society. The balls given by her were patterned after the latest established fashion, while the entertainments given by Mrs. Washington followed the simple and dignified Virginia custom. At these receptions there were many signs of wealth. One writer describes society in this manner:

"The profusion and luxury of Philadelphia on great days, at the tables of the wealthy, in their equipages, and the dresses of their wives and daughters, are, as I have observed, extreme. I have seen balls on the President's birthday where the splendor of the rooms, and the variety and richness of the dresses did not suffer in comparison with Europe; and it must be acknowledged that the beauty of the American ladies has the advantage in the comparison. The young women

of Philadelphia are accomplished in different degrees, but beauty is general with them. They want the ease and fashion of French women; but the brilliancy of their complexion is infinitely superior. Even when they grow old they are still handsome; and it would be no exaggeration to say, in the numerous assemblies of Philadelphia it is impossible to meet with what is called a plain woman. As to the young men, they for the most part seem to belong to another species."

One of the chief events of the social life in the capital was the annual ball in celebration of Washington's birthday. The people had begun to observe Washington's birthday as early as 1783, and even though upon the establishment of the government the Republicans had stigmatized this reception as a slavish imitation of European customs and denounced it with spirit, this seems really to have had little effect on the attendance, and the balls continued year after year. After Washington's retirement, however, both Republicans and Federalists united in doing honor to the foremost citizen in the country; the former because they wished to show that, even though they disliked these ceremonies when Washington was in office, they had the greatest regard for him as a private citizen; while the latter observed the day because they sincerely esteemed the custom, in addition to the fact that Washington was the leader of their party. When the capital was moved to Washington, the social life of Philadelphia naturally began to wane, and in fact the disappearance of Washington from the city may be said to have ended the days of the "Republican Court."

* A description of one of these fights is given in Archer B. Hulbert, *The Ohio River*, pp. 209-210 (1906).

The absence of city life was the chief characteristic of Virginia. The Virginia gentleman was a country gentleman or a lawyer among a society of planters. His generous nature and kindly sympathy could not be resisted. William Ellery Channing compares the people of the two sections as follows:

"I blush for my own people when I compare the selfish prudence of a Yankee with the generous confidence of a Virginian. Here I find great vices, but greater virtues than I left behind me. There is one single trait which attaches me to the people I live with more than all the virtues of New England — *they love money less than we do*; they are more disinterested; their patriotism is not tied to their purse strings. Could I only take from the Virginians their sensuality and their slaves, I should think them the greatest people in the world. As it is, with a few great virtues, they have innumerable vices."

The traditions of high breeding were still maintained and social position was still a birthright. Law and politics were the chief objects of Virginian thought. Without church, university, schools, or literature in any form requiring or fostering intellectual life, the Virginians concentrated their thoughts on politics, with the result that the stamp of the Virginia school of statesmanship was distinctly discernible in American history for the next half century.

North Carolina was neither aristocratic, like Virginia and South Carolina, nor disturbed by factional strife, like Georgia; but was thoroughly democratic and pursued a calm, serene, and even course through the most troublesome times. She tolerated more freedom of political action,

her social distinctions were fewer, there were fewer vested rights in political power, and less tyranny of slave-holding interests than in other parts of the South. Society in Charleston compared well in refinement with any city of its size in the world; its dinners, balls and races rivalled the gayety of Philadelphia itself. Its citizens were travelers, readers, and scholars. In certain respects, however, it was Puritanical. During the summer evenings the people were accustomed to promenade the principal streets, and music, laughter and talk filled the air; but promptly at 10 o'clock blinds were closed, doors were locked, and the streets were abandoned to the patrol. Again, the seriousness of the original English stock was shown in their attendance at church, their occupations and prejudices, their entertainment and their literature. The Anglican Church was the church for gentlemen; the practice and precedents of English law were rigidly adhered to; and gentlemen kept aloof from trade. The people were strict in church attendance. Charleston enjoyed considerable literary reputation and maintained a library of between three and four thousand books. There was also a well-managed theatre.

The power of the Congregational clergy in New England had in a measure been broken, and the clergy themselves were glad to lay aside the more odious watchfulness over their flocks

and to welcome social freedom within limits fixed by convention. The democrat was an outcast; he had not where to lay his head in Puritanical New England. Every loose-liver, every hair-brained demagogue, every intriguer, forger, prison-bird, speculator, scoffer, atheist, was classed as a follower of Jefferson; and Jefferson himself was regarded as the incarnation of their theories. The Congregational clergy, however, had ceased to be leaders of thought, and theological literature no longer held its former prominence on the library table, where its place was taken by political literature. The church had not as yet begun seriously to argue points of theological difference. The pulpit still fulminated against the theatre and the scandal created by the public advertisements of Hamlet and Othello. Only in certain parts of New England was Sunday travel permitted; Massachusetts and Connecticut still enforced their laws against it.

In Virginia Church and State had been severed, but the effects of disestablishing the Church were calculated to disgust the people with reform. The minute the support of the State was taken away, the Church perished. The church edifices were closed, the roofs rotted and fell in, the pews became a refuge for the beasts of the field. By 1800 Bishop Madison found his diocese so bare of clergymen and communicants that, after a few feeble efforts to revive interest,

he abandoned the attempt and turned his attention to educating boys at William and Mary College.

Education had made little progress. Early in the Eighteenth century Franklin and a number of his friends had founded a subscription library at Philadelphia. In 1800 this library was still in existence, and numerous small subscription libraries, containing from 50 to 100 volumes, were scattered through the country towns. But all the libraries of the country combined could not boast of more than 50,000 volumes (including duplicates), fully one-third of which were works on theology. Noah Webster complained of the ignorance of his countrymen. He said that they had an acquaintance with law, politics, theology and light English literature, "but as to classical learning, history (civil and ecclesiastical), mathematics, astronomy, chemistry, botany, and natural history, excepting here and there a rare instance of a man who is eminent in some one of these branches, we may be said to have no learning at all, or a mere smattering." Again he said that "our learning is superficial in a shameful degree, * * * our colleges are disgracefully destitute of books and philosophical apparatus, * * * and I am ashamed to own that scarcely a branch of science can be fully investigated in America for want of books, especially original works. This defect of our libraries I have experienced myself in search-

ing for materials for the History of Epidemic Diseases. * * * As to libraries, we have no such things. There are not more than three or four tolerable libraries in America, and these are extremely imperfect. Great numbers of the most valuable authors have not [yet] found their way across the Atlantic." As late as 1814 George Ticknor complains that good school-books were rare in Boston and that no bookseller in New England kept a copy of Euripides in the original.

The newspapers of the day could not be called educational in any sense. Advertisements of shipping and sales; a marine list; a price-list, if it were European; long extracts from English newspapers; and columns of political disquisition — never a word of events other than political; but column after column of political diatribe and vituperation. There was little difference between the two parties in their use of such weapons.

In New England the common schools were what they had been from the first, and the academies and colleges had witnessed little change. During the decade from 1720 to 1730 the average annual number of bachelor's degrees conferred at Harvard was thirty-four; from 1766 to 1776, just prior to the Revolution, the number was forty-three; and from 1790 to 1800 this had decreased to thirty-nine. The greatest change was in the number of graduates who went into the Church. Whereas from 1720 to 1730 about 140 had gone into the Church,

only 80 chose this career from 1790 to 1800. At the earlier period the College faculty consisted of the president, a professor of theology, a professor of mathematics, and four tutors; in 1800 the only change was the addition of a professor of Hebrew. In 1783 a medical school with three professors had been founded. Unfortunately for the advancement of the college, clerical control could not be thrown off, and this hindered the forward movement. Undoubtedly, without the aid of the clergy, the college would have found itself wanting in means and character; but the clergy attempted to hold the college, as well as their congregations, facing toward the past. Jedediah Morse said: "Let us guard against the insidious encroachments of *innovation*, that evil and beguiling spirit which is now stalking to and fro through the earth, seeking whom he may destroy."

In 1795, at Governor Clinton's suggestion, the Legislature appropriated \$50,000 annually for five years to create a common-school system, but in 1800 this fund was exhausted and the 1,300 schools began to decline. Columbia College had a formidable array of unfilled professorships and graduated but fifteen or twenty students annually. Little had been accomplished in scientific work, yet that institution was constantly watching for innovations. In Pennsylvania no common-school system existed, and its academies and colleges were only indifferent. Nor was New Jersey better

provided. Weld describes Princeton as follows:

"A large college held much in repute by the neighboring States. The number of students amounts to upwards of seventy; from their appearance, however, and the course of studies they seem to be engaged in, like all the other American colleges I ever saw, it better deserves the title of a grammar-school than of a college. The library which we were shown is most wretched, consisting for the most part of old theological books not even arranged with any regularity. An orrery contrived by Mr. Rittenhouse stands at one end of the apartment, but it is quite out of repair, as well as a few detached parts of a philosophical apparatus enclosed in the same glass case. At the opposite end of the room are two small cupboards which are shown as the museum. Those contain a couple of small stuffed alligators and a few singular fishes in a miserable state of preservation, from their being repeatedly tossed about."

At the close of the Eighteenth century the Virginians were inferior to no class of Americans in the sort of education then supposed to constitute refinement. Liancourt says:

"In spite of the Virginian love for dissipation, the taste for reading is commoner there among men of the first class than in any other part of America; but the populace is perhaps more ignorant there than elsewhere."

Having been forced to give up his diocese through lack of communicants, Bishop Madison began teaching boys at William and Mary College, which is described by Weld as follows:

"The Bishop is president of the College, and has apartments in the buildings. Half-a-dozen or more of the students, the eldest about twelve years old, dined at his table the day I was there. Some were without shoes or stockings, others without coats. During dinner they constantly rose to help themselves at the sideboard. A couple of dishes of salted meat and some oyster soup formed the whole of the dinner."

The New Englanders had little use for democracy.* They pointed to France as an example of what must happen in America if the ignorant and vicious were to govern the wise and good. Fisher Ames had a great fear for the future of the country. "Our days," he wrote, "are made heavy with the pressure of anxiety, and our nights restless with visions of horror. We listen to the clank of chains, and overhear the whispers of assassins. We mark the barbarous dissonance of mingled rage and triumph in the yell of an infuriated mob; we see the dismal glare of their burnings and scent the loathsome steam of human victims offered in sacrifice." Again he said:

"A democracy cannot last. Its nature ordains that its next change shall be into a military despotism — of all known governments perhaps the most prone to shift its head and the slowest to mend its vices. The reason is that the tyranny of what is called the people, and that by the sword, both operate alike to debase and corrupt, till there are neither men left with the spirit to desire liberty, nor morals with the power to sustain justice. Like the burning pestilence that destroys the human body, nothing can subsist by its dissolution but vermin."

With great glee, the Federalist newspapers in 1803 reprinted a paragraph from Dennie's *Portfolio*:

"A democracy is scarcely tolerable at any period of national history. Its omens are always sinister, and its powers are impropitious. It is on its trial here, and the issue will be civil war, desolation and anarchy. No wise man but discerns its imperfections, no good man but shudders at its miseries, no honest man but proclaims its frauds, and no brave man but draws his sword against its

* As one lady expressed it: "I should as soon have expected to see a cow in a drawing-room as a Jacobin."

force. The institution of a scheme of policy so radically contemptible and vicious is a memorable example of what the villainy of some men can devise, the folly of others receive and both establish in spite of reason, reflection and sensation."

Dennie was indicted for this paragraph as a seditious libel, but it was no more expressive than Hamilton's terse phrase at a dinner in reply to some democratic sentiment: "Your people, sir—your people is a great *beast!*" Yet some of the New Englanders were willing to have a little sprinkling of democracy in the government. Cabot said: "While I hold that a government altogether popular is in effect a government of the populace, I maintain that no government can be relied on that has not a material portion of the democratic mixture in its composition." He thought the proper condition would be as follows:

"If no man in New England could vote for legislators who was not possessed in his own right of two thousand dollars' value *in land*, we could do something better."

New York remained true to no political theory. By instinct its society was democratic and cared but little for the metaphysical subtleties which convulsed both Massachusetts and Virginia. The only true democracy in the country was Pennsylvania. There was no hierarchy as in New England; no aristocracy, with its great families, as in New York; no oligarchy such as the planters of Virginia and South Carolina. As Gallatin said: "In Pennsylvania not only we have neither Livingstons nor Rensselaers, but from the suburbs of Phila-

delphia to the banks of the Ohio, I do not know a single family that has any extensive influence. An equal distribution of property has rendered every individual independent, and there is among us true and real equality." Moreover, with many different religious creeds, its practice could not be narrow and the Quaker element made it humane.

From the first, Virginia took an attitude of opposition to the government which became more and more decided until it culminated in the Virginia Resolutions, wherein it was stated that the limit of endurance had been reached. The State was willing to support the government in all measures warranted by the Constitution, but declared the powers of the Federal government "no further valid than they are authorized by the grants enumerated in that compact; and that in the case of a deliberate, palpable, and dangerous exercise of other powers, not granted by said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them." In this belief, the General Assembly did interpose by declaring the Alien and Sedition Laws unconstitutional and by calling upon the other States to coöperate with her in preserving State rights. The Republican leaders believed that the State was at liberty to withdraw from the

Union whenever she deemed that an infraction of the Constitution had taken place, but Jefferson in 1798 preferred to do this by resolution rather than by secession.

In South Carolina the people were not so imbued with political thoughts and aspirations as in Virginia, and were more likely to have made common cause with the gentry of New England and the Middle States against democratic innovations. The Carolinian gentlemen supported the conservative side in politics, and this side held the political power in the State. Yet in 1800 these very conservatives deserted their Northern friends to insure the defeat of the

Federalist candidate. Sharply contrasted in many ways to the gentry were the upcountry people — rude, ignorant, stern and austere in their religious practices, fiercely democratic, yet disliking change and hence very conservative in their thought. South Carolina seemed to bristle with contradictions.*

* For general social condition, see Henry Adams, *History of the United States*, vol. i., chap. 11; R. W. Griswold, *The Republican Court* (1864); Rochefoucauld-Liancourt, *Travels through the United States, 1795-1797* (2 vols., London, 1799); Timothy Dwight, *Travels in New England and New York* (4 vols., 1821, 1822); Isaac Weld, *Travels through the States of North America and Canada, 1795-1797* (2 vols., 1799); P. Campbell, *Travels in the Interior Inhabited Parts of North America, 1791, 1792* (1793); John Bernard, *Retrospections of America, 1797-1811* (1887).



SERIES NINE

LECTURES THIRTY-SIX TO THIRTY-EIGHT

The Jeffersonian Era: Democracy and Nationality, 1801—1829

- 36. Territorial Expansion
- 37. The Wars with the Barbary Powers
- 38. Internal Affairs; Democracy and Conspiracy

THE UNITED STATES

CHAPTER I.

1801-1802.

ORGANIZATION AND REFORMATION.

Inauguration of Jefferson — Personal characteristics of Jefferson — His ideas as to the conduct of the government — Appointments of Cabinet officials — Jefferson's position as to government patronage — His theory of removals — Dwight's remarks — The case of Elizur Goodrich — The removal of Federalists in New York — Jefferson's message to Congress — The financial schemes of Gallatin — Jefferson's recommendation of a reduction in taxes — Randolph's bill to reduce taxes — Its passage — Establishment of a sinking fund — The attack on the judiciary — The attack on the mint — Rejection of a fugitive-slave bill — Other enactments — Jefferson's view of the work of Congress — Press opinions — Callender's abuse of Jefferson — Jefferson's reply — Arrival of Paine — New England prejudice against Jefferson.

ON Wednesday, March 4, 1801, Aaron Burr took the oath of Vice-President in the Senate chamber. Soon afterward Jefferson entered the chamber and delivered his inaugural address.* The oath of office was then administered by Chief Justice John Marshall and Jefferson became the third President of the United States.

As Jefferson was practically the government for many years to come, a glance at his personal characteristics may aid us in understanding his acts. He was tall—more than six feet two inches; of sandy complex-

ion; shy in manner, somewhat cold; awkward in his actions; and impressive. Maclay describes him, when he became Secretary of State, as follows:

"Jefferson is a slender man; has rather the air of stillness in his manner. His clothes seem too small for him. He sits in a lounging manner, on one hip commonly, and with one of his shoulders elevated much above the other. His face has a sunny aspect. His whole figure has a loose, shackling air. He had a rambling, vacant look, and nothing of that firm collected deportment which I expected would dignify the presence of a secretary or minister. I looked for gravity, but a laxity of manner seemed shed about him. He spoke almost without ceasing; even his discourse partook of his personal demeanor. It was loose and rambling; and yet he scattered information wherever he went, and some even brilliant sentiments sparkled from him."*

Yet this loose, shackling person, with hazel eyes and sunny aspect,

* See Richardson, *Messages and Papers*, vol. i., pp. 321-324; Watson, *Life and Times of Thomas Jefferson*, pp. 519-524; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 1-6. See also Henry Adams, *History of the United States*, vol. i., chap. vii.; Schouler, *United States*, vol. ii., p. 1 et seq.

* William Maclay, *Sketches of Debate in the First Senate*, p. 212. Webster's description of him in 1824 is very similar. See Curtis, *Life of Webster*, vol. i., pp. 581-583.

with his rambling and often brilliant conversation is more indispensable to the story of this period of American history than many of the official papers, for his personality had impressed itself on the minds of the people — friends and foes alike — more than that of any other prominent figure in our history. Reviled and bitterly assailed by his opponents and as fervently loved and warmly defended by his followers, Jefferson is a man very difficult to estimate without bias. Though the worst political charges were made against him, none thought of calling him corrupt. Even if he was sometimes given to misstatements of fact, as his enemies charged, he was ever true to the faith of his life and never forsook the principles he professed. His life, private and public, was blameless. Even his associates were men upon whose reputations no breath of scandal rested. All were men of liberal and cultivated tastes, thoroughly in sympathy with Jefferson's policies and none of them drones or mere rhetoricians. Jefferson cared little where his advisers came from, so long as they had the requisite qualifications; geographical claims he defied with astonishing impunity.*

Jefferson's only disturbing thought was the possibility of foreign war, and this he meant to prevent chiefly by appealing to the interests of the European countries, knowing that

they desired peace and free commerce with America. He believed that a union of European powers was impossible, but trusted to their mutual jealousies to secure their good treatment of the United States. By a single act Congress could divert a stream of wealth from one power to another, and Jefferson realized the enormous leverage of the Constitutional power "to regulate commerce with foreign nations." Writing to Gideon Granger, August 13, 1800, he said:

"The true theory of our Constitution is surely the wisest and best, that the States are independent as to everything within themselves, and united as to everything respecting foreign nations. Let the general government be reduced to foreign concerns only, and let our affairs be disentangled from those of all other nations, except as to commerce, which the merchants will manage the better the more they are left free to manage for themselves, and our general government may be reduced to a very simple organization and a very inexpensive one,—a few plain duties to be performed by a few servants."*

To Logan he wrote as follows:

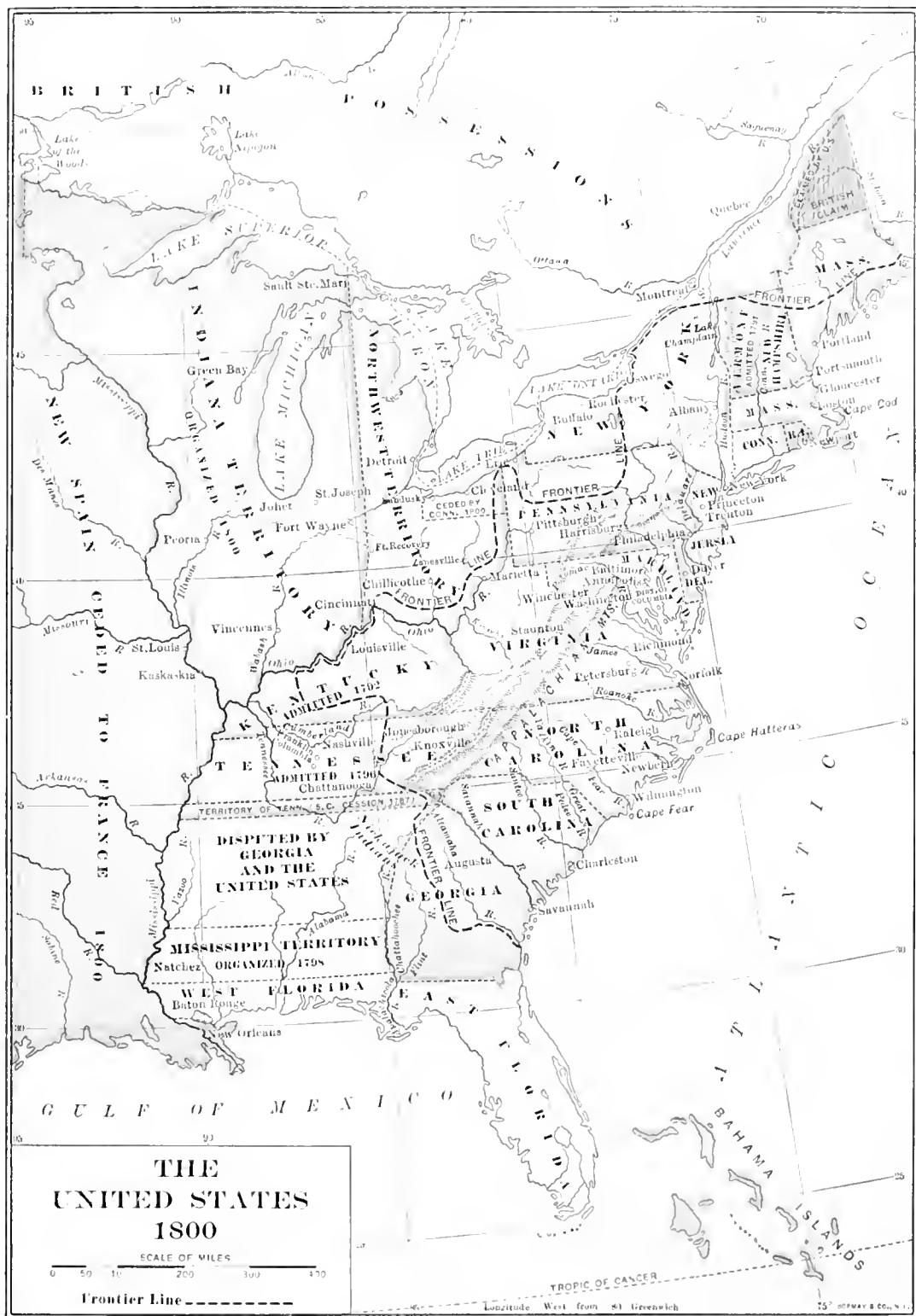
"Our commerce is so valuable to them, that they will be glad to purchase it, when the only price we ask is to do us justice. I believe we have in our own hands the means of peaceable coercion; and that the moment they see our government so united as that we can make use of it, they will for their own interest be disposed to do us justice."†

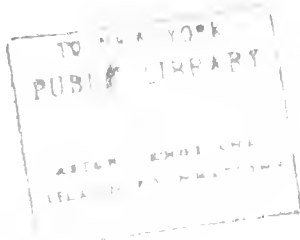
The day after his inauguration the President appointed James Madison Secretary of State; Henry Dearborn,

* Washington's ed. of Jefferson's *Works*, vol. iv., p. 330.

† Ford's ed. of Jefferson's *Writings*, vol. viii., p. 23.

* Schonler, *United States*, vol. ii., p. 14.





of Massachusetts, Secretary of War; and Levi Lincoln, of the same State, Attorney-General. The Secretaries of the Treasury and of the Navy, Samuel Dexter and Benjamin Stoddert, were continued in office a short time; but in May Abraham Albert Alphonse de Gallatin (generally known simply as Albert Gallatin) was placed over the Treasury; and in July Robert Smith, of Maryland, was appointed Secretary of the Navy, a post which Robert R. Livingston, chancellor of New York, had first refused.* Gideon Granger, a Connecticut Republican, was at the same time appointed Postmaster-General,† in place of Joseph Habersham, of Georgia. These nominations were not confirmed by the Senate till January 26, 1802.

The new President found himself in a perplexing position. For the first time a new national party had come into power—a party whose members had been jealously excluded and even removed from office for at least four years for the crime of being Republicans. It could not be denied that the Republicans had a reasonable claim on all vacancies to be filled until they should be fairly represented in national offices. Moreover, the recent conduct of the Federalists in endeavor-

ing to defeat Jefferson, and Adams' resort to the Judiciary Act in appointing the "Midnight Judges" during the expiring hours of his own administration (in order to forestall the discretion of his successor a few months later), were considered too outrageous for the new President to overlook, much less to sanction. While from principle Jefferson refused to elevate his chief opponents to office, and while he determined to break the power of the Essex Junto, the monarchists and the British faction (as he styled them), as men who might be tolerated but not trusted, he thought it neither just nor prudent to deprive office-holders of their positions solely for political reasons.*

If, as Jefferson said in his inaugural address, "We are all Republicans, we are all Federalists"; if he did not consider differences of opinion to constitute differences of principle; if he sincerely wished to "restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things," he could not afford to remove many office-holders for political reasons. On the other hand, if, as he privately declared, the actual office-holders were monarchists at heart and could not be trusted to carry into practice the new Republican doctrines, then, indeed, did the public welfare require that the personnel of the administrative offices be radically changed. To

* McMaster, vol. ii., p. 582-584; Adams, *United States*, vol. i., p. 218 *et seq.*; Parton, *Life of Thomas Jefferson*, p. 597 *et seq.*; Hunt, *Life of Madison*, p. 271; Stevens, *Albert Gallatin*, pp. 185-188; Gordy, *Political History*, vol. i., p. 390 *et seq.*

† The Postmaster-General was not made a member of the Cabinet until the administration of Andrew Jackson.

* Schouler, *United States*, vol. ii., pp. 6-7.

Giles on March 23, Jefferson avowed his determination to make removals as follows: *first*—"the new appointments which Mr. Adams crowded in with whip and spur from the 12th of December when the event of the election was known, and consequently that he was making appointments not for himself but for his successor, until nine o'clock of the night at twelve o'clock of which he was to go out of office. This outrage on decency should not have its effect, except in the life appointments; * * * as to the others I consider the nominations as nullities"; *second*—all who had been guilty of "official mal-conduct." But, on the other hand, he said: "Good men, to whom there is no objection but a difference of political principle, practiced on only as far as the right of a private citizen will justify, are not proper subjects of removal."*

When the removals began, the Federalists set up a great cry, which finally became so loud that the President felt compelled to defend his course. The State of Connecticut furnished the occasion, for there the temper of the office-holders was such that even Madison was constrained to say: "The spirit in that State is so perverse that it must be rectified by a peculiar mixture of energy and delicacy." This spirit was admirably illustrated by a speech delivered at

New Haven on July 7 by Theodore Dwight, who said in the course of his remarks:

"The great object of Jacobinism, both in its political and moral revolution, is to destroy every trace of civilization in the world, and to force mankind back into the savage state. * * * That is, in plain English, the greatest villain in the community is the fittest person to make and execute the laws. Graduated by this scale, there can be no doubt that Jacobins have the highest qualifications for rulers. * * * We have now reached the consummation of democratic blessedness. We have a country governed by blockheads and knaves; the ties of marriage with all its felicities are severed and destroyed; our wives and daughters are thrown into the stews; our children are cast into the world from the breast and forgotten; filial piety is extinguished; and our surnames, the only mark of distinction among families, are abolished. Can the imagination paint anything more dreadful on this side of hell?"*

Madison could hardly be blamed for thinking this spirit perverse, nor is Jefferson to be censured for wishing to banish it—even to the extent of removing from office those who held such views. Among these was Elizur Goodrich, collector for the district of New Haven. He had been appointed by Adams after the result of the Presidential election became known, and therefore fell into class one—those whom the new President determined to remove.†

On March 29 Jefferson wrote to Gideon Granger and to Pierrepont Edwards asking if there were any reason for making an exception in

* Ford's ed. of *Jefferson's Writings*, vol. viii., p. 25, also pp. 9-10, 27, 41-42, 67; Morse, *Thomas Jefferson*, pp. 218-220. See also Parton, *Life of Thomas Jefferson*, pp. 610-612.

* Adams, *United States*, vol. i., p. 225.

† See Jefferson's letter, in Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 43-44.

the case of Goodrich. Both thought there was not.

"They [the Federalists] boldly assert that you dare not dismiss any federal officer in Connecticut. They say that you have no confidence in any of the Republicans because you consider them as unfriendly to all government. * * * The malignity of the Federalists here is wholly inconceivable to any but such as are eye and ear witnesses to all. * * * Our leading Federalists are all royalist. * * * If they cannot effect a change in the Administration they are resolved to divide the Union. * * * It is determined so far as Connecticut is concerned, to disgrace the Republican party as much as possible, * * * on all occasions to teach it for doctrine that the Democrats in Connecticut are a set of men of no talents, no property, no morals, and unfriendly to all government. With these facts in view, we do not hesitate to say that a temporizing policy will be here a ruinous policy."*

Considering the post vacant, Jefferson filled it by appointing Samuel Bishop, a man 77 years old and so nearly blind as to be hardly able to sign his name. Though the New Haven people appreciated Bishop's high personal character, they remonstrated to the President by saying that Bishop was inexperienced in commercial customs and usages, and ignorant even of the revenue laws. Jefferson replied† that he had tried to put the right man in the right place and had taken pains to get information regarding Bishop's fitness, which information showed that he had been town clerk, a justice of the peace,

mayor of New Haven, chief judge of the court of common pleas, and sole judge of the court of probate. Certainly, added Jefferson, if the State of Connecticut could so honor one of her sons, he was not unfit to be collector of its chief port.* Admitting that he had said that office-holders would not be displaced solely because of their political beliefs, it was only fair to the dominant party, Jefferson thought, that it should have control of the governmental machinery; for the result of the election showed that the country desired a change of control, and how could the Republicans properly manage the Nation's affairs according to the will of the people unless a majority of the office-holders were of that political persuasion? In order to carry out the people's will, displacements were necessary, vacancies "by death are few, by resignation none,"† and therefore removals could nowhere be made more fittingly than among those who had been ap-

* On the other hand, the Federalists did not protest at the retention in office of General Benjamin Lincoln, the aged Federalist collector at Boston, who so felt the infirmities of age that he habitually dropped asleep at his desk in a fit of lethargy. See Schouler, *United States*, vol. ii., p. 9. See also Sparks, *Life of Benjamin Lincoln*. Moreover, Jefferson steadily refused to appoint relatives to office, saying: "The public will never be made to believe that an appointment of a relative is made on the ground of merit alone, uninfluenced by family views; nor can they ever see, with approbation, offices, the disposal of which they intrust to their President, for public purposes, divided out as family property."

† Ford's ed. of *Jefferson's Writings*, vol. viii., p. 78.

* See *American Historical Review* (January, 1898), pp. 276-278. For Noah Webster's opinion of the removals, see Hunt, *Life of Madison*, pp. 277-278.

† See Ford's ed. of *Jefferson's Writings*, vol. viii., p. 67.

pointed during the last moments of a dying administration.*

Meanwhile in New York and Pennsylvania, where the Republicans had wrested the power from the Federalists, all vestige of Federalist influence was eradicated. When George Clinton, elected in the spring of 1801, came into power, a meeting of the council (which under the New York constitution controlled the State patronage) was held; and as the council was under the control of DeWitt Clinton and Ambrose Spencer, every Federalist was swept out of office. Clinton and Spencer, despite the governor's protests, placed their own friends and relatives in power.† Jefferson himself widened the breach between the factions of the Republican party in New York by ignoring the recommendations of Burr in his appointments in that State.‡ The three Republican factions there were known as the Clinton, the Livingston and the Burr wings; but so little did their principles and morals differ that even as honest and astute a politician as Albert Gallatin seemed to think Burr the best of the three leaders.¶ Burr had succeeded in obtaining the promise of appointments for two of his

friends, Theodore Bailey and Matthew L. Davis; but, DeWitt Clinton protesting, neither appointment was made.* Hearing a rumor that there was some secret understanding, Burr wrote to Gallatin on June 28, 1801: "Strange reports are here in circulation respecting secret machinations against Davis. * * * This thing has, in my opinion, gone too far to be ever defeated. * * * Davis is too important to be trifled with."† Davis then sought a personal interview with Jefferson, bearing a letter of endorsement from Gallatin.‡ But Davis was not appointed. Jefferson withheld all support from Burr, and DeWitt Clinton and Ambrose Spencer, in conjunction with Jefferson, proceeded to detach the Livingstons from Burr's interest. Robert R. Livingston had already been appointed Minister to France, and Edward Livingston was made mayor of New York — an office then in the gift of the council and worth about \$10,000 a year.¶ The chief justice and two of the Supreme Court judges were connected with the Livingstons, as were also the Secretary of State and General Armstrong (one of the Senators). Gradually the State and city offices were taken from

* McMaster, vol. ii., pp. 585-587. See also p. 596 *et seq.* for further arguments on the President's reply and his powers of removal.

† Alexander, *Political History of New York*, vol. i., pp. 110-111, 116 *et seq.*

‡ Ford's ed. of *Jefferson's Writings*, vol. viii., p. 52. See also Parton, *Life and Times of Aaron Burr*, p. 307.

¶ Adams, *Life of Gallatin*, p. 288.

* Alexander, *Political History of New York*, vol. i., p. 121.

† Adams, *Life of Gallatin*, p. 283.

‡ *Ibid.*, p. 288.

¶ Hammond, *Political History of New York*, vol. i., p. 180; Parton, *Life and Times of Aaron Burr*, p. 307; Alexander, *Political History of New York*, vol. i., p. 116 *et seq.*

the Federalists and divided between the Clintons and Livingstons.

This disgusted Gallatin, who declared that the appointments disgraced the Republican cause and the Administration.* On July 25, 1801, Gallatin also sent a draft of a Treasury circular the intent of which was to stop the removal of inferior officers and to exclude them from active politics;† but Jefferson declined to approve it.‡ In New York Governor Clinton vainly protested against the abuse of patronage, while Governor McKean, of Pennsylvania, wrote: "The thirst for office is immoderate; it has become an object of serious attention, and I wish I knew how to check it."§ On the other hand Madison made no changes in the State Department, though it was filled with zealous Federalists—retaining even the services of the chief clerk, as bitter a partisan as any then holding office, whose presence was a disadvantage if not a danger to the government. Even Duane was coldly received at the State and Treasury Departments.§ Of the 385 officials subject to removal by the President holding office on March 4, 1801, 183 were still in office on March 4, 1805. Jefferson made less than twenty removals

for political reasons, the others being for misconduct in office. Moreover, when he appointed the commissioners of bankruptcy under the act of 1801, he distributed these offices impartially to Federalists and Republicans.*

On November 6 the President addressed to the heads of the departments a circular unfolding his plan of procedure. Contrasting the course of Washington's administration with that of John Adams, he signified his purpose to act upon the precedent of his former chief until experience should suggest improvements. Professing his "unlimited, unqualified, and unabated" confidence in his ministers, not one of whom he could change to his better satisfaction, "if he had the universe to choose from," he distinctly disavowed any intention of suffering the government to be "parcelled out among four independent heads," as he believed his immediate predecessor had done.†

The Seventh Congress commenced its first session on Monday, December 7. Both in the Senate and in the

* Channing, *Jeffersonian System*, p. 17. See also Jefferson's letter in Ford's ed. of *Jefferson's Writings*, vol. viii., p. 97, and vol. ix., p. 51; and the estimates by J. M. Merriam, in *Papers of the American Historical Association*, vol. ii., p. 51; by C. R. Fish, *Civil Service and Patronage*, p. 42; and in *Report of the American Historical Association for 1889*, p. 70; Schouler, *United States*, vol. ii., p. 10. As a matter of fact, the removals were not at all commensurate with the wishes of some of Jefferson's supporters. See Dodd, *Nathaniel Macon*, p. 168; Adams' ed. of *Gallatin's Writings*, vol. i., p. 130.

† Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 99-101.

* Gallatin's *Writings*, vol. i., p. 47.

† *Ibid.*, vol. i., p. 28.

‡ Channing, *The Jeffersonian System*, p. 17.

§ Adams, *United States*, vol. i., p. 235.

§ Gallatin's *Writings*, vol. i., p. 38. See also Gaillard Hunt, *Office-Seeking During Jefferson's Administration*, in *American Historical Review*, vol. iii., p. 270.

House the Democratic party had a clear working majority, and hence Abraham Baldwin was elected President *pro tempore* of the Senate and Nathaniel Macon Speaker of the House.* Jefferson adopted a different mode of communicating with Congress than had been employed by Washington and Adams. He thought the speeches and answers of the two Houses had savored too much of the forms of royalty; so, instead of a speech, he prepared a message, to be sent with an explanatory letter to the President of the Senate and the Speaker of the House† — a plan which, it should be noted, has been followed by Jefferson's successors.

In his message‡ Jefferson spoke of the pacific state of the country, of the progress of the war with the Barbary powers, of the need of reducing the expenses of the government, of the needs of the army and navy, of harbor fortifications, of the jury system, etc. Congress having been organized and the Speaker elected, the members were

ready to proceed. The business of the session quickly took shape in two party struggles on the lines marked out by the message, the first concerning the abolition of internal taxes and the second concerning the circuit courts. Jefferson was duly anxious to repeal internal taxes of every nature.

In preparing for the business of the approaching session, the hardest task devolved upon Gallatin, to whose lot fell the duties of paying the debt and of decreasing the taxes. Democratic principle demanded that the payment of the debt take precedence over all other expenditures; yet that principle called also for the reduction of taxes.* Customs duties were already low, the highest *ad valorem* rate being 20 per cent., while the average was but 13. No one had asked that the average be lowered, save on the specific duties on salt, coffee and sugar. Assuming that the debt might easily be extinguished in sixteen years, Gallatin calculated that \$7,300,000 ought to be appropriated annually for the payment of principal and interest, and

* Schouler, *United States*, vol. ii., p. 20; Fuller, *Speakers of the House*, p. 28.

† Richardson, *Messages and Papers*, vol. i., p. 325; Parton, *Life of Thomas Jefferson*, pp. 622-623. Jefferson was pleased with the first result of the experiment. In a letter to Dr. Rush he says: "Our winter campaign has opened with more good humor than I expected. By sending a message, instead of making a speech, at the opening of the session, I have prevented the bloody conflict to which the making an answer would have committed them."

‡ Richardson, *Messages and Papers*, vol. i., pp. 326-332; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 108-125; *Annals of Congress*, 7th Congress, 1st session, vol. i., pp. 11-16; Benton, *Abridgment*, vol. ii., pp. 541-544.

* Writing to Jefferson, November 16, 1801, Gallatin said: "I am firmly of the opinion that, if the present Administration and Congress do not take the most effective measures for that object [paying the debt], the debt will be entailed on us and the ensuing generations, together with all the systems which support it and which it supports. On the other hand, if this Administration shall not reduce taxes, they never will be permanently reduced. * * * I agree most fully with you that pretended tax preparations, treasury preparations, and army preparations against contingent wars tend only to encourage wars."—Gallatin's *Writings*, vol. i., pp. 70-71.

that this would discharge the whole debt by 1817. He estimated that the net customs receipts for the year would amount to \$9,500,000 and the receipts from land sales and postage to \$450,000 (\$9,950,000 in all). In addition, there were internal taxes — especially the tax on whiskey-stills — amounting to \$650,000, making a grand total of \$10,600,000 (\$3,300,000 over the amount set apart for payment of the debt).^{*} If taxation were to be reduced at all, political reasons demanded that the excise be sacrificed first of all; and if this were abolished, the other internal taxes would be too small to be retained. Gallatin therefore consented to abolish the entire \$650,000 of internal taxes. Thus, after setting aside \$7,300,000, there would be only \$2,650,000 with which to run the government. Gallatin reckoned that \$930,000 would suffice for the army and \$670,000 for the navy. When the matter came before the Cabinet, little objection was made to his plans. Gallatin cut down the estimates for the various departments by one-half; and, peace having returned to Europe, the Secretaries of War and of the Navy consented to some radical reductions, so that the entire expense for both departments was not to exceed \$1,900,000. The army bore the brunt of these economies, being reduced to about 3,000

men, but the navy suffered less severely.*

In his message of December 8, 1801, Jefferson therefore recommended that Congress dispense with all internal taxes — excise, stamps, the taxes on auction licenses, carriages and refined sugars, and postage on newspapers, etc. He said that the remaining revenues would be sufficient and there was no need to accumulate a surplus “for wars to happen we know not when.” He recommended also a reduction in the number of government offices.† Accordingly a bill was presented in the House March 8, 1802, by Randolph, chairman of the Committee of Ways and Means, providing for the repeal of all duties on stills and whiskey, refined sugar, pleasure carriages, auction sales, retailers’ licenses, stamped vellum, parchment, and paper, and the postage on newspapers.‡ Arguing that it did not go far enough, the Federalists tried to defeat the bill. The first taxes to be removed, the Federalists maintained, were those on necessities. For refined sugar substitute brown sugar, said they; for licenses put in Bohea tea, for carriages put in salt, for auctions substitute coffee; and we

^{*} Gallatin’s complete report of December 18, 1801, is in *American State Papers, Finance*, vol. i., pp. 701–717; *Annals of Congress*, 7th Congress, 2d session, pp. 1212–1226.

^{*} Adams, *United States*, vol. i., pp. 238–242. See also Bolles, *Financial History*, pp. 206–207.

[†] Richardson, *Messages and Papers*, vol. i., pp. 328–329.

[‡] *Annals of Congress*, 7th Congress, 1st session, pp. 356–361, 493–494, 989; 2d session, pp. 1236–1238; *American State Papers, Finance*, vol. i., pp. 734–735; Benton, *Abridgment of Debates*, vol. ii., pp. 579–581.

will support the bill heartily. The Republicans said this was absurd. If tea, coffee, and brown sugar were placed on the free list, imported goods would be exempted; and imported goods are luxuries. Tea and coffee are not necessities. Besides, not a single office would be abolished by cutting off import duties, whereas if the internal revenue system were abolished, the Executive patronage would be diminished by one-half.*

But this did not convince the Federalists, who persisted in moving amendments so long that the exasperated Republicans adopted the course of leaving the Federalists unanswered and voting down their motions in silence.† Finally, on March 22, 1802, the bill was passed in the House by a vote of 61 to 24 and sent to the Senate. There it encountered comparatively little opposition and was passed March 31 by a vote of 15 to 11.‡ Thus the taxes were reduced by more than \$900,000,|| and with them more than one-half of the government's patronage was swept away.

A sinking fund was established also by means of which the public debt, amounting to a nominal capital of about \$80,000,000, was to be paid off in sixteen years. An act was passed making an annual appropriation of

\$7,300,000 for the payment of interest and principal of the public debt.

The party in power now began a systematic attack on the work of the previous Administration. The Alien and Sedition laws had expired, the additional troops had been disbanded, and a larger part of the navy disposed of. But the judiciary remained, and work on its demolition was begun immediately. On January 8, 1802, John Breckinridge, of Kentucky, moved in the Senate that the judiciary bill be repealed.* He followed the suggestion made in Jefferson's message† that the new courts were unnecessary and improper and therefore should be abolished. Papers now before the Senate showed, he said, that on June 15, 1801, there were pending in all the circuit courts 1,539 suits, many of them springing from sources of litigation dried up. The business of the courts was rapidly decreasing; in 1799 1,274 cases were begun; in 1800 but 687. How, then, could it be necessary to increase the number of courts when the business for them was steadily diminishing? Furthermore, the Constitution did not say that Congress "shall" establish inferior courts, but that it "may" do so. The power is discretionary. If Congress possessed the power to establish inferior courts, could it not abolish them, too? The courts gone,

* McMaster, vol. ii., p. 614.

† Adams, *United States*, vol. i., p. 271.

‡ *Annals of Congress*, 7th Congress, 1st session, vol. i., pp. 209-250, 1018-1074, 1323-1326; *United States Statutes-at-Large*, vol. ii., p. 148.

|| McMaster, vol. ii, p. 615.

* *Annals of Congress*, 7th Congress, 1st session, vol. i., p. 25.

† Richardson, *Messages and Papers*, vol. i., p. 331.

must not judges go? True, the judges should hold office during good behavior, but could this mean that the judges should hold offices which did not exist? The Federalists, on the other hand, asserted that while the right to establish courts was discretionary with Congress, the Constitution said that judges "shall" hold office during good behavior, "shall" be paid at stated intervals, and their pay "shall" not be decreased while they continue in office. How could the command "shall hold office during good behavior" be followed if the judges, while behaving well, were turned out of their offices by their abolition? The true meaning of the law was that Congress may or may not establish inferior courts, but the judges, once appointed, shall hold office permanently, and Congress could not turn them out during good behavior.*

On January 19 Breckinridge's motion for a committee of inquiry was carried by 15 to 13 votes, but when a repealing bill was reported it appeared that the Senate was tied at 15 to 15, with Burr holding the casting vote. On January 27 Dayton, of New Jersey, moved that the bill be recommitted to a select committee, and Burr's casting vote decided the motion.† A Republican Senator now

returning to his seat, Breckinridge obtained the discharge of the select committee on February 2,* and on the next day the bill passed the Senate by a vote of 16 to 15.†

On February 4, 1802, the bill was taken under consideration by the House in Committee of the Whole, the principal speeches being made by Giles and Bayard.‡ The Federalists posed as the defenders of the Constitution against sacrilegious attacks and were chiefly concerned with casting as much odium on the Republicans as they could for their removal of judges by legislation. For the first time the Republicans made light of constitutional objections. On February 18, 1802, Giles began his speech by saying that the Federalists wished "to place in executive hands all the patronage it was able to create for the purpose of protecting the President against the full force of his constitutional responsibility to the people," while the Republicans contended that "the doctrine of patronage was repugnant to the opinions and feelings of the people; that it was unnecessary, expensive, and oppressive; and that the highest energy the government could possess would flow

* *Annals of Congress*, pp. 154-160.

† Adams, *United States*, vol. i., p. 281; *Annals of Congress*, p. 183; Benton, *Abridgment*, vol. ii., p. 565; Parton, *Life and Times of Aaron Burr*, pp. 309-310.

‡ See Williston, *Eloquence of the United States*, vol. ii., pp. 82-235. On the debate in general see Benton, *Abridgment of Debates*, vol. ii., pp. 545-565, 596-639; Adams, *John Randolph*, p. 64 *et seq.*; *Annals of Congress*, pp. 476-480, 510-986.

* *Annals of Congress*, 7th Congress, 1st session, pp. 26-30; Benton, *Abridgment*, vol. ii., pp. 546-548; McMaster, vol. ii., pp. 608-609.

† *Annals of Congress*, pp. 30-41, 46-150; Benton, *Abridgment*, vol. ii., pp. 548-565.

from the confidence of the mass of the people, founded upon their own sense of their common interests." The Federalists had enacted legislation with an eye single to the perpetuation of the patronage system and when at last the people had rebelled, "it was natural for them to look out for some department of the government in which they could entrench themselves in the event of an unsuccessful issue in the election, and continue to support those favorite principles of irresponsibility which they could never consent to abandon." Respecting the measure under discussion, Giles said:

"On one side it is contended that the office is the vested property of the judge, conferred on him by his appointment, and that his good behavior is the consideration of his compensation; so long, therefore, as his good behavior exists, so long his office must continue in consequence of his good behavior; and that his compensation is his property in virtue of his office, and therefore cannot be taken away by any authority whatever, although there may be no service for him to perform. On the other hand, it is contended that the good behavior is not the consideration upon which the compensation accrues, but services rendered for the public good; and that if the office is to be considered as a property, it is a property held in trust for the benefit of the people, and must therefore be held subject to that condition of which Congress is the Constitutional judge."*

In recounting the passage of the Judiciary Act, Giles charged that the members of the legislature who voted in favor of the act "were appointed to offices, not indeed created by the law, the Constitution having wisely guarded against an effect of that sort, but to judicial offices previously cre-

ated by the removal, or what was called the promotion, of judges from the offices they then held to the offices newly created, and supplying their places by members of the legislature who voted for the creation of the new offices."

In answering Giles, Bayard made a memorable speech. On the constitutional point involved in the bill, he said:

"The point on which I rely, is, that you can do no act which impairs the independence of a judge. When gentlemen assert that the office may be vacated notwithstanding the incumbency of the judge, do they consider that they beg the very point which is in controversy? The office cannot be vacated without violating the express provision of the Constitution in relation to the tenure. * * * The second plain, unequivocal provision on this subject is that the compensation of the judge shall not be diminished during the time he continues in office. This provision is directly levelled at the power of the Legislature. They alone could reduce the salary. Could this provision have any other design than to place the judge out of the power of Congress? * * * You cannot reduce a part of the compensation, but you may extinguish the whole. What is the sum of this notable reasoning? You cannot remove a judge from office, but you may take the office from the judge. You cannot take the compensation from the judge, but you may separate the judge from the compensation. If your Constitution cannot resist reasoning like this, then indeed is it waste paper."*

In refuting the charge that members of Congress had been rewarded for their votes by being appointed to the vacant offices, Bayard said:

"The case to which I refer carries me once more to the scene of the Presidential election. I should not have introduced it into this debate, had it not been called up by the honorable member from Virginia. In that scene I had my part;

* *Annals*, p. 589.

* *Annals*, pp. 631-632.

it was a part not barren of incident, and which has left an impression which cannot easily depart from my recollection. I know who were rendered important characters, either from the possession of personal means or from the accident of political situation. And now, sir, let me ask the honorable member what his reflections and belief will be, when he observes that every man on whose vote the event of the election hung has since been distinguished by Presidential favor? I fear, sir, I shall violate the decorum of Parliamentary proceeding, in the mentioning of names; but I hope the example which has been set me will be admitted as an excuse. Mr. Charles Pinckney, of South Carolina, was not a member of the House, but he was one of the most active, efficient, and successful promoters of the election of the present Chief Magistrate. It was well ascertained that the votes of South Carolina were to turn the equal balance of the scales. The zeal and industry of Mr. Pinckney had no bounds; the doubtful politics of South Carolina were decided, and her votes cast in the scale of Mr. Jefferson. Mr. Pinckney has since been appointed Minister Plenipotentiary to the Court of Madrid—an appointment as high and honorable as any within the gift of the Executive. I will not deny that this preferment is the reward of talents and services, although, sir, I have never yet heard of the talents or services of Mr. Charles Pinckney. In the House of Representatives I know what was the value of the vote of Mr. Claiborne, of Tennessee. The vote of a State was in his hands. Mr. Claiborne has since been raised to the high dignity of Governor of the Mississippi Territory. I know how great, and how greatly felt, was the importance of the vote of Mr. Linn, of New Jersey. The delegation of the State consists of five members. Two of the delegation were decidedly for Mr. Jefferson; two were decidedly for Mr. Burr. Mr. Linn was considered as inclining to one side, but still doubtful. Both parties looked up to him for the vote of New Jersey. He gave it to Mr. Jefferson; and Mr. Linn has since had the profitable office of supervisor of his district conferred upon him. Mr. Lyon, of Vermont, was, in this instance, an important man. He neutralized the vote of Vermont. His absence alone would have given the vote of a State to Mr. Burr. It was too much to give an office to Mr. Lyon,—his character was low. But Mr. Lyon's son has been handsomely provided for in one of the Executive offices. I shall add to the catalogue but the name of one more gentleman, Mr. Edward Livingston, of New York. I knew well, full well I knew the consequence of this

gentleman. His means were not limited to his own vote; nay, I always considered more than the vote of New York within his power. Mr. Livingston has been made the attorney for the district of New York; the road of preferment has been opened to him, and his brother has been raised to the distinguished place of Minister Plenipotentiary to the French Republic.*

John Randolph undertook to reply on February 20.† Protesting that it was “not on account of the paltry expense of the establishment” that he wanted it put down, he likened Bayard to Goliath and himself to David, with the simple weapon of truth, a stone and a sling. Federal writers carried out the figure and Randolph was long called “Little David,” “Jack the Giant-Killer,” “The Man with the Sling,” etc.‡ The debate continued in the Senate day after day until February 3, the same arguments being used over and over again. When the roll was called that day the bill was passed by a vote of 16 to 15.|| Another month was spent in the House before the vote was taken and then the bill was passed by a vote of 59 to 32.§

The judiciary bill having been repealed, another bill was passed, dividing all the States save Maine and the region beyond the mountains into six circuits, in each of which one judge, with the assistance of a district judge,

* *Annals*, pp. 640–641.

† *Annals*, pp. 650–665.

‡ McMaster, vol. ii., p. 610; Adams, *John Randolph*, p. 64 *et seq.*

|| *Annals*, p. 183.

§ *Annals*, pp. 982, 1305–1306; Schouler, *United States*, vol. ii., p. 26.

held courts, half yearly; and the term of the Supreme Court was limited to one annual session.*

On no subject had the Republicans expressed stronger convictions than against the navy. Yet, when Michael Leib, of Pennsylvania, moved that a committee be appointed to consider its abolition, his motion was allowed to lie on the table until in a spirit of defiance Roger Griswold, of Connecticut, called it up (March 5).† The House sustained Griswold and took up the resolution, when Leib withdrew his motion.

The Republicans had opposed the mint as unnecessary, expensive and symbolic of centralized power, and indeed it had been a costly affair, for since its foundation it had coined, in gold, silver and copper, only \$3,000,000 at a cost of \$300,000, while an American gold or silver coin was a rarity.‡ Accordingly, on January 29, Giles moved that the act under which it existed be repealed,|| at the same time avowing his hostility to the establishment.§ John Randolph said that nineteen-twentieths of the silver in circulation was Spanish and that sovereignty was no more affected by using foreign coins than by using foreign cordage or cannon.¶ The House accepted these views; and on April 26, after a short debate, passed

Giles' bill without a division.* But on the same day the Senate quietly and without discussion rejected it.†

On December 18, 1801, a fugitive-slave bill was reported by a committee of which Joseph Nicholson was chairman. A fine of \$500 was to be imposed on any one who should employ a negro stranger without advertising a description of him in two newspapers. Under this law every free negro in the North must carry about him a certificate of his freedom. But the Northern Democrats objected to the bill; and, though Bayard and several Southern Federalists joined Giles, Michael Leib, and John Randolph in supporting it, the bill was rejected January 18 by a vote of 46 to 43.‡

Among the other acts of this session were the adoption of a new naturalization law (Act of April 14, 1802), reëstablishing the term of five years' residence as a prerequisite to citizenship||; a new apportionment of Representatives according to the returns of the last census, the ratio being retained at one member for 33,000 citizens (Act of January 14, 1802)§; the reduction of the army to three regiments — one of artillery and two of

* *Annals*, pp. 1332-1342.

† *Annals*, p. 988.

‡ Adams, *United States*, vol. i., p. 299.

|| *Annals*, pp. 471-472, 1238-1242.

§ *Annals*, p. 489.

¶ *Annals*, p. 488.

* *Annals*, pp. 1246-1247.

† *Annals*, pp. 291-292; Adams, *United States*, vol. i., pp. 299-300.

‡ *Annals*, pp. 336, 423-425; Adams, *United States*, vol. i., p. 300.

|| *United States Statutes-at-Large*, vol. ii., p. 53; Schouler, *United States*, vol. ii., p. 27; *Annals*, pp. 1329-1332.

§ *Annals*, p. 1300.

infantry—in all about 3,000 men, under one brigadier-general (Act of March 16, 1802)*; and the reduction of the pay of customs officials.†

The work of Congress now being finished, the debate on the reform measures was transferred to the newspapers and periodicals.‡ The chief object of attack was the reduction of internal taxes, which the Federalists claimed to be a sham, for the poor used neither pleasure-carriages nor stamped vellum, while they did use large quantities of salt, sugar and molasses, the duty on which was retained. The Republicans, however, claimed that the poor paid no duty at all, since it fell on the merchant, not on the consumer. Internal taxes belonged to the States, not to the general government, and it was better that the government should be poor and the people rich than that the government should lay taxes to fill its coffers while the pockets of the laborers were empty. It was also complained that the cost of living was rising and that the wages of labor were becoming excessive, though the average rate throughout the country was only \$65 a year, with food, and, perhaps, lodging.¶ Several New York newspapers raised their sub-

scription rates and a number of sailors struck for a raise of wages from \$10 to \$14 per month (in which, however, they were unsuccessful).

Attention was now turned to the conduct of James T. Callender and Thomas Paine. When Callender's term of imprisonment expired, Jefferson returned his fine and granted him a full pardon. Not content, however, he demanded the postmastership at Richmond, which was refused, \$50 being given him instead.* Callender grew angry and proceeded to revenge himself by filling the columns of the *Richmond Recorder* with slander and abuse of Jefferson. He claimed that it was at Jefferson's suggestion and with the aid of a present of \$100 from him that he had produced *The Prospect before Us*, one of the worst lampoons that had been written on the administrations of Washington and Adams. He charged also that Jefferson had furnished him with information when asked; that Jefferson's private life was scandalous and revolting to the last degree;† that the President had a family of negro children by a slave named Sally; that he had been turned out of the house of a man named Walker for writing a secret love-letter to his wife; and that he

* *Annals*, pp. 1306–1312.

† *Annals*, p. 1348.

‡ Roosevelt says: "We have never had another party so little able to stand adversity [as the Federalist]. They lost their temper first and they lost their principles next, and actually began to take up the heresies discarded by their adversaries."—*Gouverneur Morris*, p. 335.

¶ McMaster, vol. ii., p. 617.

* See Jefferson's letters to Monroe in Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 58, 61, 164–166, 167, also his letter to Mrs. Adams, pp. 308–310, note; Parton, *Life of Thomas Jefferson*, p. 606; Hunt, *Life of Madison*, p. 278 *et seq.* See also Madison's letter in *Madison's Works* (Congress ed.), vol. ii., p. 173.

† Morse, *Thomas Jefferson*, pp. 227–229.

had swindled his creditors by paying debts in worthless currency.*

Disproof of these charges was impossible. That concerning Black Sally rested on a confusion of persons, which could not be cleared up to the satisfaction of the Federalists; that relating to the love-letter to Mrs. Walker had a foundation of truth, though the parties were subsequently reconciled†; that regarding *The Prospect before Us* was true enough to be serious. But without waiting to investigate, the Federalist press scattered these charges broadcast over New England. The people of that section were ready to welcome any tale of villainy that bore out their theory of Jefferson's character, and a mistake made by Jefferson himself went far to confirm their prejudice. Jefferson was deeply hurt by the fact that a large part of the community should believe the drunken ruffian and chuckle with merriment while Callender bespattered him with mud. Hurt and angry, he felt that it was the old theological hatred in Virginia and New England which sustained this mode of warfare and that as he had flung Paine at them they were flinging Callender at him. Writing to R. R. Livingston, October 10, 1802, he said:

"You will have seen by our newspapers that, with the aid of a lying renegade from republi-

canism, the Federalists have opened all their sluices of calumny. They say, we lied them out of power, and openly avow they will do the same of us. But it was not lies, or arguments, on our part which dethroned them, but their own foolish acts, alien laws, taxes, extravagances, and heresies." *

Had Jefferson stopped here he would have been wise, but he made the foolish mistake of contradicting Callender's assertions. Writing to Monroe, July 15, and 17, 1802 he said:

"I am really mortified at the base ingratitude of Callender. It presents human nature in a hideous form. It gives me concern because I perceive that relief which was afforded him on mere motives of charity, may be viewed under the aspect of employing him as a writer."

He then explained how he had pitied Callender and had given him money, continuing:

"As to myself, no man wished more to see his pen stopped; but I considered him still as a proper object of benevolence. The succeeding year [1800] he again wanted money to buy paper for another volume. I made his letter, as before, the occasion of giving him another fifty dollars. He considers these as proofs of my approbation of his writings, when they were mere charities, yielded under a strong conviction that he was injuring us by his writings." †

Unfortunately Jefferson could not find the press copies of his letters to Callender and allowed Monroe to send out these apologies without comparing them with his written words. But Callender supplied the omission and in September printed Jefferson's two letters which proved that Jeffer-

* Adams, *United States*, vol. i., pp. 323-324; Schouler, *United States*, vol. ii., pp. 37-38.

† See Madison's letter to Monroe, April 20, 1803, in Madison's *Works* (Congress ed.), vol. ii., p. 181.

* Tucker, *Life of Jefferson*, vol. ii., pp. 119-121; Washington's ed. of Jefferson's *Works*, vol. iv., p. 448.

† Washington's ed. of Jefferson's *Works*, vol. iv., pp. 444-447.

son not only had at different times given him \$200, but had also supplied some information for *The Prospect before Us* and, under an injunction of secrecy, had encouraged Callender to write. His words could not be explained away: "I thank you for the proof-sheets you enclosed me: such papers cannot fail to produce the best effect." The only manner in which this self-contradiction could be explained was that Jefferson had a habit of writing in a spirit of kindly prevarication and that disliking whatever might seem harsh or disobliging, by telling Callender that his book could not fail to produce the best effect he was merely hinting that it might do harm.*

On October 29, in the midst of this ferment, Paine arrived from Europe. The Republican papers made the mistake at first of denying that he had been invited to return in a government ship or that Jefferson had written him any such letter as was rumored.† They did not know exactly how to treat him until it was stated that he had been invited to the White House; that he might be seen any fine

day walking arm in arm with the President; that he was to be given a lucrative office under the Government; and that he was at work on a defence of the Government. To set at rest the object of his mission, the *National Intelligencer* printed a long series of letters by Paine addressed to the people of the United States, in which he stated that he had no need for a government position, since his income as an author sufficed him so that he need not earn money by religion or politics. He next gave a history of his doings in England and France and then launched into a tirade of abuse against Washington, Adams, and the Federalists in general. But Paine's sarcasm had lost its sting and his weapon no longer caused alarm. The Federalist newspapers reprinted his letters and were delighted to hold Jefferson responsible for them. The storm of recrimination raged with noisy violence amid incessant recurrence to the trio of Godless ruffians — Jefferson, Paine and Callender — but the only permanent result was to leave a fixed prejudice against and an intense hatred of Jefferson in the New England mind.*

* Adams, *United States*, vol. i., pp. 326-327; McMaster, vol. ii., pp. 618-619.

† Regarding this see Tucker, *Life of Jefferson*, vol. ii., pp. 94-96; Parton, *Life of Jefferson*, p. 590 *et seq.*; McMaster, vol. ii., pp. 594-596; Adams, *United States*, vol. i., pp. 316-318.

* McMaster, vol. ii., pp. 619-620; Adams, *United States*, vol. i., pp. 327-329; Schouler, vol. ii., pp. 38-39.

CHAPTER II.

1801-1805.

THE PURCHASE OF LOUISIANA AND THE ESTABLISHMENT OF TERRITORIAL GOVERNMENT.

Early grants of territory — Negotiation of the treaty of San Ildefonso between France and Spain — Toussaint's insurrection in San Domingo — Jefferson's anxiety as to retrocession of Louisiana — Talleyrand's denial of the existence of a treaty — Jefferson's letter to Livingston regarding cession — Revocation by Morales of American right of deposit at New Orleans — Action of Congress — Appointment of envoys to France and Spain — Monroe's instructions — Appropriation for "foreign intercourse" — Negotiations with Napoleon and the purchase of Louisiana — Extent of the territory — Doubt as to the constitutionality of the purchase — Ratification of the treaty — Reception of Jefferson's amendment — Debates in Congress — Conditions in Louisiana — Transfer of Louisiana to France — Appointment of American commissioners to take possession — Formal delivery of the territory — Establishment of territorial government — Provisions of the act — Refusal of the Spanish to depart — Establishment of separate government in Orleans and Louisiana — Departure of the Spanish.

Before telling the history of the Louisiana purchase we must briefly review the various cessions and retrocessions by which Louisiana was bandied back and forth between France and Spain. So far as it included the territory west of the Mississippi River and the Island of Orleans, Louisiana was ceded to Spain by France in 1763.* At the same time France acknowledged Great Britain as the lawful possessor of all Louisiana east of the Mississippi, with the exception of the Island of Orleans. This cession included the port of Mobile. On her part Spain turned over to Great Britain her claim to the territory east of Louisiana — in other words, Florida, with boundaries according to Spanish pretensions. Thus Great Britain acquired a clear title to Florida and to all of Louisiana

east of the Mississippi and east of the Island of Orleans.*

Out of this territory the English king formed two provinces, East and West Florida. East of the Appalachicola River and including the present State of Florida was East Florida; West Florida consisted of all of Spanish Florida west of the Appalachicola and of Louisiana east of lakes Maurepas and Pontchartrain and south of the 31st degree of north latitude. By increasing the authority of the successive governors, Great Britain extended the limits of West Florida so that it embraced the French settlement of Natchez, on the east bank of the Mississippi. This was the state of affairs when peace negotiations to terminate the American Revolution were undertaken. When the preliminaries were signed

* James K. Hosmer, *History of the Louisiana Purchase*, p. 21.

* See *American History Leaflets*, No. 5. See also Cooley, *Acquisition of Louisiana*, p. 8.

in 1782,* it was provided in a separate article that, should Great Britain be in possession of West Florida at the end of the war, the southern boundary of the United States should be 32° 30', otherwise 31°. As Great Britain was unable to drive the Spaniards from West Florida, the definitive treaty designated the boundary as the 31st parallel from the Mississippi to the Chattahoochee. At the same time England ceded the Floridas to Spain without mentioning any boundaries.

After the Revolution pioneers settled in the West and found that the only outlet for their produce was the Mississippi. The Spanish government tried to close the commerce of the river to them and the weak government of the Confederation was nearly prevailed upon to consent to this; but a burst of wrath from beyond the Alleghanies convinced Jay that, if the free navigation of the river were relinquished, the western provinces would be lost. These disputes were brought to an end in 1795 by the signing of a treaty at Madrid by which the Spanish government recognized the 31st degree as the southern boundary of the United States and agreed to give to American citizens the right of navigation of the river and the right of deposit at New Orleans.†

During the Revolution in France the recovery of Louisiana was never wholly lost to view, and on July 22, 1795, when the treaty of peace between France and Spain was signed at Bâle, the French commissioners unsuccessfully endeavored to secure the retrocession of the coveted territory. Nevertheless some progress was made, for by this treaty the eastern half of San Domingo (Hayti) was ceded to France; but conditions in Hayti were such that French tenure in the island promised to be extremely hazardous and only the name of sovereignty was assumed in 1795.* After the French Directory had been formed, the ambition to secure a colonial empire revived, and the Louisiana negotiations were renewed, but not before July of 1797, when Talleyrand became minister of foreign affairs, was much progress made. He determined to restore French authority in the Mississippi Valley, and in May of 1798 sent Citizen Guillemardet to Madrid as minister to Spain, instructing him to protest against the

v.; Channing, *Jeffersonian System*, pp. 53-57. See also C. F. Robertson, *The American Revolution and the Acquisition of the Valley of the Mississippi* (St. Louis, 1884), and *Attempts made to Separate the West from the American Union* (1885); Cooley, *The Acquisition of Louisiana*, Indiana Historical Society pamphlets, no. iii. (1887); *Magazine of American History*, vol. iii., p. 44.

* On the conditions, see E. W. Gilliam, *The French Colony of San Domingo; Its Rise and Fall*, in *Magazine of American History*, vol. xx., pp. 471-479; Adams, *United States*, vol. i., p. 378 *et seq.*

* See *Treaties and Conventions between the United States and Other Powers* (ed. 1873), p. 312.

† McLaughlin, *Confederation and the Constitution*, chap. vi.; Bassett, *Federalist System*, chap.

evacuation of the Spanish posts on the Mississippi and to urge that the Spanish ministry make no concessions to the Americans, as the latter undoubtedly desired control of the entire continent. Talleyrand said that there seemed to be no means of curbing American ambition other than to shut them in within the limits which nature had traced for them. As Spain was in no condition to do this single-handed, she should cede Louisiana and the Floridas to France, who, being mistress of these two provinces, "will be a wall of brass forever impenetrable to the combined efforts of England and America." * But the defeat of the French at Abukir Bay by Nelson, August 1, 1798, and the practical failure of Napoleon's Egyptian campaign thwarted the consummation of this audacious plan.†

Meanwhile the course of the French Directory had alienated the friendship of America, and the two nations were on the verge of war. On July 20, 1799, however, Talleyrand retired from the foreign office, and shortly after his return from Egypt Napoleon took direct charge of affairs, having created himself First Consul. On September 30, 1800, therefore, the treaty of Morfontaine was negotiated whereby the United States was absolved from all obligations under the French alliance of 1778 and France

was relieved of responsibility for captures of American vessels and goods during the existing war with England.*

On July 22, 1800, after Talleyrand had been reinstated in office, Napoleon instructed him to renew negotiations with Spain for the retrocession of Louisiana by offering in compensation for that territory an aggrandizement of the Duchy of Parma.‡ France was to add to Parma a territory containing not less than 1,000,000 inhabitants and to secure the consent of such nations as might be interested in the shifting of boundaries, in return for which Spain was to cede Louisiana and the Floridas to France and give the latter possession when the promised accretion to Parma should be actually realized. Beside Louisiana and the Floridas, Spain was to give France six ships of war, and the two Powers were to make common cause against any person or powers who should attack or threaten them in consequence of the treaty.§ On October 1, 1800, not a day after the treaty of Morfontaine between France and the United States had been signed,|| the commissioners of France

* Ogg, pp. 470-471; Adams, *United States*, vol. i., pp. 359-363.

† Adams, *United States*, vol. i., pp. 363-366.

‡ *Ibid.*, pp. 366-367; Ogg, *Opening of the Mississippi*, pp. 475-476; Hosmer, *The Louisiana Purchase*, pp. 36-37; Schouler, *United States*, vol. ii., pp. 41-42.

§ *Treaties and Conventions*, pp. 266-275; *American State Papers, Public Lands*, vol. v., p. 711.

* Ogg, *Opening of the Mississippi*, pp. 466-467; Adams, *United States*, vol. i., pp. 356-357.

† Ogg, pp. 467-469.

and Spain signed the treaty of San Ildefonso, by which Louisiana was retroceded to France,* though provisions of the treaty did not take effect before March 21, 1801, when Lucien Bonaparte negotiated a new treaty at San Ildefonso.† This was equivalent to a rupture of the relations established the day before‡ But the Spanish king delayed carrying out his part of the treaty until Napoleon became so impatient that on July 27, 1801, he instructed Talleyrand to demand the necessary authority to take possession of Louisiana.¶ Nevertheless, the retrocession was not formally made before October 15, 1802.

Before this had occurred, however, Napoleon decided that Louisiana should be brought under French control by force, and, by way of preparation, he undertook to crush the revolution in San Domingo under François Dominique Toussaint, (sometimes called L'Onverture) and to make the island the chief stronghold of French power in the western Atlantic. Toussaint's previous services to France had been rewarded with a commission as brigadier-general, and in May of 1797 he was made general-

in-chief, with military command over the whole colony. Soon afterward he began to sever connections with France. He first seized the Spanish part of the island (which by the treaty of Bâle had been ceded to France five years before, but which had not yet been transferred) so as to prevent the landing of French troops there. In May of 1801 he gave the island a new constitution. On November 22, 1801, therefore, Napoleon sent a fleet with several thousand men which arrived at San Domingo late in January of 1802. The struggle lasted less than three months, but it swept away a whole French army, ruined the industry of the colony, and probably greatly influenced Napoleon to desist from further attempts to subjugate distant lands with soldiers so urgently needed for his home campaigns. Had Toussaint not been betrayed by his generals, he might have achieved a triumph greater than any won by his contemporaries. But his generals were jealous of his power and, fearing that a still stronger military despotism would follow his defeat of the French, surrendered their armies to Leclerc, against Toussaint's orders and without his knowledge. Toussaint himself then (on May 1, 1802) made the fatal mistake of his life by surrendering himself to Leclerc, trusting to the latter's word of honor. He was hurried on ship-board and sent to France, where he was cast into a dungeon in the fortress of

* Phelps, *Louisiana*, pp. 179-181; *American State Papers, Public Lands*, vol. vii., p. 576; H. A. Bruce, *The Romance of American Expansion*, pp. 42-43.

† Hosmer, *The Louisiana Purchase*, pp. 37-38. For text see *American State Papers, Foreign Relations*, vol. ii., pp. 511-512; *Annals of Congress*, 7th Congress, 2d session, p. 1017.

‡ Adams, *United States*, vol. i., p. 370.

¶ *Ibid.*, vol. i., p. 374.

Jaux. There on April 7 1803, he died—by poison, it is said.*

But the task of subjugating the revolutionists was too great to admit of any further conquest by the troops under Leclerc, and in June of 1802 Napoleon considered the advisability of sending a special expedition to Louisiana,† “in the utmost secrecy under the appearance of being directed on St. Domingo.”‡

In the spring of 1801 news of the treaty of San Ildefonso reached the United States and excited considerable anxiety and alarm.¶ Jefferson himself was much chagrined, for more than any other man he appreciated how invaluable that great region was to the States.§ On May 26, 1801, he wrote to Monroe that “there is considerable reason to apprehend that Spain cedes Louisiana and the Floridas to France,” and that this was not only unwise for both France and Spain but “very ominous to us.”¶ The possession of New Orleans and the right to navigate the Mississippi were indispensable to the prosperity

of the West, and the substitution of French for Spanish sovereignty in a region so vitally important to the United States could not be viewed with indifference. If the question were not amicably settled, a collision would certainly occur at no distant date. In the meantime, the feeling of unrest in the West increased the Government's apprehension.* On June 9, 1801, Secretary Madison wrote to Charles Pinckney and on September 28 to Robert R. Livingston on the subject of the retrocession, stating that American feeling was almost unanimous against the passage of Louisiana into French hands.†

Jefferson then understood the meaning of the French expedition to San Domingo. He realized that, if not for Toussaint's resistance and Godoy's delays in delivering Louisiana, 10,000 French veterans might have occupied New Orleans and St. Louis before a regiment of American militia could have been collected at Nashville. But he was now to get a taste of French insolence of which he had little dreamed. On gaining the upper hand in San Domingo, Leclerc perceived that the island drew its supplies chiefly from the United States. As he disliked the United States and as the French merchants

* Wendell Phillips, *The St. Domingo Insurrection*; C. W. Elliott, *St. Domingo, its Revolution and its Hero*; James Stephen, *Buonaparte in the West Indies*; Marcus Rainsford, *St. Domingo*; biographies of Toussaint by Pierre Lafitte, Saint Remy, Gragnon-Lacoste, and Schoelcher, and Toussaint's *Memoires* (1853); Adams, *United States*, vol. i., chap. xv.

† Phelps, *Louisiana*, pp. 182-183; Ogg, *Opening of the Mississippi*, p. 483.

‡ Hosmer, *The Louisiana Purchase*, pp. 50-52.

¶ H. A. Bruce, *The Romance of American Expansion*, p. 44.

§ Morse, *Thomas Jefferson*, p. 237.

¶ Ford's ed. of *Jefferson's Writings*, vol. viii., p. 58.

* Roosevelt, *Winning of the West*, vol. iv., pp. 264-265.

† *American State Papers, Foreign Relations*, vol. ii., pp. 510-511; *Annals of Congress*, 7th Congress, 2d session, pp. 1013-1016; Hunt, *Life of Madison*, pp. 289-290.

in the island complained of the practical monopoly of trade by the Americans, Leclerc began to seize American goods. When the American shipmasters and merchants protested, he not only insulted but imprisoned them for offences unknown to the law. Consul Tobias Lear was ordered from the island with the notice that, as a French colony, San Domingo could receive no American consuls. Madison then requested the French minister, Pichon, to write a letter of remonstrance to Leclerc, which he did only to be removed from office for his officiousness.*

This opened Jefferson's eyes, but there were other evidences of Napoleon's duplicity. In November of 1801, just as Leclerc's expedition had sailed, Livingston arrived in France and received private assurances that Louisiana and Florida had been bought by France. When he inquired regarding this, Talleyrand denied it,† though at that very moment Rufus King was sending from London the text of Lucien Bonaparte's treaty giving the details of the retrocession. Talleyrand's denial and Bonaparte's treaty reached Jefferson simultaneously and convinced him of the French underhandedness.‡ Livingston's notes remained unanswered. This, together with Leclerc's violent

actions, made Madison irritable. On May 1, 1802, he wrote to Livingston:

"The cession of Louisiana to France becomes daily more and more a source of painful apprehension. * * * You will, consequently, spare no efforts that will consort with prudence and dignity, to lead the councils of France to proper views of this subject, and to an abandonment of her present purpose. You will also pursue, by prudent means, the inquiry into the extent of the cession, particularly whether it includes the Floridas as well as New Orleans, and endeavor to ascertain the price at which these, if included in the cession, would be yielded to the United States."*

At this point Jefferson intervened. A French gentleman, Pierre Samuel Du Pont de Nemours, then in the United States, was just on the point of returning to France; and Jefferson turned to him as a medium of unofficial communication with Napoleon. On April 18, 1802, Jefferson had written a long letter to Livingston in Paris regarding the Louisiana cession, which he gave to Du Pont, requesting him to read it. In this letter Jefferson pointed out the new attitude which France would henceforth assume toward the United States, saying:

"The cession of Louisiana and the Floridas by Spain to France works most sorely on the U. S. * * * There is on the globe one single spot, the possessor of which is our natural and habitual enemy. It is New Orleans, through which the produce of three-eighths of our territory must pass to market. * * * It is impossible that France and the United States can continue long friends, when they meet in so irritable a position. * * * The day that France takes possession

* Adams, *United States*, vol. i., pp. 406-408.

† *American State Papers, Foreign Relations*, vol. ii., pp. 511-512.

‡ Hosmer, *The Louisiana Purchase*, p. 58.

* *American State Papers, Foreign Relations*, vol. ii., p. 516.

of New Orleans fixes the sentence which is to restrain her forever within her low water mark.
* * * From that moment we must marry ourselves to the British fleet and nation."*

Nevertheless, in spite of his fears for Louisiana, Jefferson seems to have been willing to prevent its acquisition by a constitutional guaranty to Spain of her territory on the west side of the Mississippi.† Writing to Livingston, October 10, 1802, Jefferson said that the French government had acted in such a manner as plainly to show that her feelings were decidedly unfriendly. He cautioned Livingston not to take sides in the disputes between France and England, directing him to "give all his communications to the French government a very mild, complaisant, and even friendly connection, but always independent."‡

Toussaint's rebellion having been crushed, the way was clear for the occupation of Louisiana, and Du Pont's influence with Napoleon availed little.‖ Nevertheless, the trouble in San Domingo was not yet terminated, for after an army of

17,000 men had perished in suppressing the rebellion, another was now being swept away by the ravages of yellow fever.* On November 1, 1802, Leclerc himself fell a victim to the epidemic; and, as Napoleon became discouraged with his attempts at conquest in the western Atlantic, and as the conquest of England (a design previously conceived) was now uppermost in his mind, the occupancy of Louisiana became a secondary consideration.

From the state of affairs in Europe it now seemed that Spain would be left in undisputed possession of the Louisiana territory. But just as the Administration began to find a measure of comfort in the situation, W. C. C. Claiborne, governor of the Mississippi Territory, sent word to Secretary Madison (October 29, 1802) that on October 16 Don Juan Ventura Morales, the Spanish intendant of the province of Louisiana, had issued a proclamation forbidding to Americans the further use of New Orleans as a base of deposit, a right they had exercised under the treaty of San Lorenzo el Real since 1795.† Morales held that according to the treaty the

* Washington's ed. of *Jefferson's Works*, vol. iv., pp. 431-434; Morse, *Thomas Jefferson*, p. 238; Parton, *Life of Thomas Jefferson*, pp. 644-645; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 143-147.

† See Madison's letter to Pinckney, May 11, 1802, in *American State Papers, Foreign Relations*, vol. ii., p. 517.

‡ Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 172-174.

‖ J. G. Rosengarten, *Du Pont de Nemours*, in *Magazine of American History*, vol. xxi., pp. 234-240; Jacob H. Hollander, *Du Pont de Nemours and American Affairs*.

* Adams, *United States*, vol. i., pp. 414-415.

† *American State Papers, Foreign Relations*, vol. ii., p. 470; *Annals of Congress*, 7th Congress, 2d session, pp. 920-922; Phelps, *Louisiana*, pp. 184-185; McMaster, *United States*, vol. ii., p. 621. See also Franklin L. Riley, *Spanish Policy in Mississippi after the Treaty of San Lorenzo*, in *Annual Report of the American Historical Association*, 1897, pp. 175-193; Hubert B. Fuller, *The Purchase of Florida, Its History and Diplomacy*, p. 93.

right was long since forfeited, that the treaty itself was a mistake on the part of Spain, and that the river should no longer be open to American commerce unless heavy tolls were paid. Don Juan de Salcedo, the Spanish governor at New Orleans, protested that this action was fraught with danger to the Spanish interests, and Don Carlos Martinez de Yrujo, the Spanish minister at Washington, asserted that it was a piece of high-handed despotism on the part of Morales.* This action produced great excitement throughout the West,† as is witnessed by Claiborne's letters.‡ On November 30 the governor of Kentucky wrote to Jefferson informing him of the alarm and agitation in that State,|| and on December 1 the Legislature sent a memorial to Congress on the same subject.§ This convinced Jefferson that the time had come when New Orleans and the west-

ern territory should be acquired by the United States.*

The second session of the Seventh Congress opened several days later than usual, no quorum being present on December 6. On the 15th Jefferson sent in his annual message,† dealing chiefly with foreign relations, particularly those with France, Great Britain, and the Barbary States. It referred also to the dealings of the State of Georgia with the Indians and to Indian affairs in the West. The one subject which engrossed the attention of the members, however, was the closing of the port of New Orleans. On December 17, therefore, on the motion of John Randolph, the House called upon the President for information regarding the supposed violation of the treaty of 1795.‡ On the 22d Congress was formally notified by the President that the Mississippi was

* Ogg, *Opening of the Mississippi*, p. 498; Adams, *United States*, vol. i., pp. 418-421, 427; Roosevelt, *Winning of the West*, vol. iv., pp. 269-270; Hunt, *Life of Madison*, p. 291. See also Manuel de Salcedo's letter to Claiborne, in Richardson, *Messages and Papers*, vol. i., pp. 348-350; and in E. J. Carpenter, *The American Advance*, pp. 13-16.

† Spears and Clark, *History of the Mississippi Valley*, pp. 388-389.

‡ *American State Papers, Foreign Relations*, vol. ii., p. 470; Gayarré, *History of Louisiana*, vol. iii., pp. 456-458.

|| *American State Papers, Foreign Relations*, vol. ii., p. 471.

§ Madison to Livingston, December 23, *ibid*, p. 528. See also Schouler, *United States*, vol. ii., pp. 44-45.

* In a letter to Monroe dated January 13, 1803, Jefferson describes the situation as follows: "The agitation of the public mind * * * is extreme. In the western country it is natural and grounded on honest motives. In the sea-ports it proceeds from a desire for war, which increases the mercantile lottery; in the Federalists generally, and especially those of Congress, the object is to force us into war if possible, in order to derange our finances, or if this cannot be done, to attach the western country to them, as their best friends, and thus get again into power. Remonstrances, memorials, etc are now circulating through the whole of the western country and signing by the body of the people."—Ford's ed. of *Jefferson's Writings*, vol. viii., p. 190; Morse, *Thomas Jefferson*, pp. 240-241.

† Richardson, *Messages and Papers*, vol. i., pp. 342-346; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 181-187; *Annals of Congress*, 7th Congress, 2d session, pp. 12-15; Benton, *Abridgment of Debates*, vol. ii., pp. 662-663.

‡ Adams, *John Randolph*, p. 76.

virtually closed to American commerce.

On January 5, 1803, Roger Griswold, of Connecticut, moved that the President be requested to lay before the House such official documents as he possessed relating to the cession of Louisiana to France, together with a report explaining the stipulations, circumstances, and conditions under which the province was to be relinquished, with the usual reservation as to what the President might think it proper to withhold.† The resolution being deemed by the Republicans likely to embarrass the pending negotiations (an effect probably intended by its supporters), it was opposed and finally rejected.‡ At the same time Mr. Griswold offered other resolutions, asserting the right of people of the United States to the navigation of the Mississippi and proposing an inquiry into the measures proper to be taken to maintain this right.|| The majority refused to consider the resolutions, but on January 7, by a vote of 50 to 25, resolved that:

“Relying, with perfect confidence, on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States: holding it to be their duty, at the same time, to express their unalterable deter-

mination to maintain the boundaries, and the rights of navigation and commerce, through the River Mississippi, as established by existing treaties.” *

On January 11, that he might carry his pacific policy into effect, Jefferson appointed James Monroe envoy extraordinary and minister plenipotentiary to France and Spain,† to act with Livingston in the purchase of New Orleans and the Floridas;‡ for, said he, in writing to Monroe, January 13, 1803, “the measures we have been pursuing, being invisible, do not satisfy their minds [those of the western people]. Something sensible therefore has become necessary.”|| The nomination was approved by the Senate January 13, and without losing a moment Jefferson earnestly urged Monroe to accept.§ With Monroe, Jefferson joined Mr. Livingston, who was already on the ground; and the two were commissioned to treat with

* *Annals*, pp. 339-342; Benton, pp. 710-712; *American State Papers, Foreign Relations*, vol. ii., p. 471. See also Tucker, *Life of Jefferson*, vol. ii., p. 125; Adams, *United States*, vol. i., p. 431; Carpenter, *The American Advance*, pp. 17-18.

† There being some mistake in designating Monroe an envoy extraordinary, Madison wrote him on June 25 that he was to consider himself of the same grade as his colleague.

‡ Richardson, *Messages and Papers*, vol. i., pp. 350-351; *Annals of Congress*, 7th Congress, 2d session, pp. 22-23; Benton, *Abridgment*, vol. ii., p. 664; *American State Papers, Foreign Relations*, vol. ii., pp. 475, 529; Phelps, *Louisiana*, p. 186.

|| Ford's ed. of Jefferson's *Writings*, vol. viii., p. 190. See also Ogg, *Opening of the Mississippi*, pp. 500-502.

§ Ford's ed. of Jefferson's *Writings*, vol. viii., pp. 190-191.

* *American State Papers, Foreign Relations*, vol. ii., p. 469.

† *Annals of Congress*, 7th Congress, 2d session, p. 312; Benton, *Abridgment of Debates*, vol. ii., p. 697.

‡ McMaster, vol. ii., p. 621.

|| *Annals*, pp. 324, 338; Benton, pp. 702, 710.

both France and Spain,* to remonstrate against the withdrawal of the right of deposit, and to propose anew the purchase of the Island of New Orleans.†

It was early in the spring (March 2d) when Monroe received his instructions. They were framed to provide for three contingencies: If France would sell New Orleans and the Floridas, he was to bid high rather than lose them; if she should refuse to sell any territory whatever, he was to content himself with securing the right of deposit; but if Napoleon should refuse the right of deposit also, the commissioners were to be guided by special instructions. For New Orleans and West Florida they were to offer any sum up to \$10,000,000, commercial privileges for ten years in the ceded ports, incorporation of the inhabitants on an equal footing with American citizens without unnecessary delay and (if absolutely necessary) a guaranty of the west bank of the river.‡ Meanwhile, as the Western States had begun to show symp-

oms of impatience, several motions respecting the matter were introduced in Congress. On February 14, 1803, Senator James Ross, of Pennsylvania, introduced a resolution that the President call out 50,000 militia and occupy New Orleans, \$5,000,000 to be appropriated to finance the movement.* This resolution was defeated, however.† Breckinridge, of Kentucky, then introduced other resolutions raising the number of the militia to 80,000, though he neither defined the work they were to do nor provided for their pay.‡ During that session the sum of \$2,000,000 was appropriated, ostensibly for the expenses of "foreign intercourse," though really this money was intended for the purchase of New Orleans and the Floridas.||

On learning of the retrocession of Louisiana to France, Livingston had presented a memorial to Napoleon on the subject, to which, however, he paid little attention.§ Meanwhile Napoleon, having become involved in a petty squabble with England regarding the island of Malta, had for-

* Ogg, *Opening of the Mississippi*, p. 502. Madison's instructions to Monroe and Livingston are in *American State Papers*, vol. ii., pp. 540-544; *Annals of Congress*, 7th Congress, 2d session, pp. 1095-1107; Foster, *Century of American Diplomacy*, p. 190 *et seq.*; James Q. Howard, *The Louisiana Purchase*, p. 106 *et seq.*

† Ford's ed. of *Jefferson's Writings*, vol. viii., p. 209; Fuller, *The Purchase of Florida*, p. 104 *et seq.*

‡ *American State Papers, Foreign Relations*, vol. ii., pp. 540-544; Hosmer, *The Louisiana Purchase*, p. 65; Howard, *The Louisiana Purchase*, p. 108 *et seq.*; Fuller, *The Purchase of Florida*, p. 109 *et seq.*

* *Annals of Congress*, 7th Congress, 2d session, p. 95. For the debate in the Senate see *Annals*, pp. 83-89, 91-97, 106-256; Benton, *Abridgment of Debates*, vol. ii., pp. 668-692.

† McMaster, vol. ii., pp. 623-624; Madison's *Works* (Congress ed.), vol. ii., p. 178; Schouler, *United States*, vol. ii., p. 47.

‡ *Annals of Congress*, 7th Congress, 2d session, p. 119; Phelps, *Louisiana*, p. 187.

|| *Annals*, pp. 370-374; Schouler, *United States*, vol. ii., p. 46; Carpenter, *The American Advance*, pp. 19-23.

§ See the letters in *American State Papers, Foreign Relations*, vol. ii., pp. 531, 538-540, 546.

mulated the project of invading and conquering England.* Being in need of money to finance the English expedition, he now began to look more favorably upon Livingston's representations, and so, most unexpectedly offered the United States, not only New Orleans, but the whole of Louisiana for the sum of 50,000,000 francs†

Livingston had no authority to do more than treat respecting the indemnity claimed by the American citizens for vessels taken or plundered by French privateers during Adams' administration; but, lest he might be throwing away a fair opportunity of serving his country, he offered 20,000,000 francs for Louisiana "provided our citizens were paid."‡ Nothing

was done, however, until Monroe arrived. He had left the United States in March* and reached Paris on April 12, finding Livingston convinced that the French government was not acting in good faith. "Only force," said Livingston, "can give us New Orleans. We must employ force. Let us first get possession of the country, and negotiate afterwards."†

Negotiations proceeded smoothly and rapidly, however, until Marbois — perceiving that the extent of Louisiana was greater than Napoleon had dreamed and that, had the latter known of the vastness of the territory, he would have asked more — demanded 125,000,000 francs of the American commissioners, of which one-fifth was to revert to citizens of the United States having claims against France.§ In the end, however, he fixed the price at 80,000,000 francs, still protesting that this sum was far below the true value of the province.|| The American commis-

* Schouler, *United States*, vol. ii., pp. 50-51.

† For Napoleon's conversation with his ministers and with Barbé-Marbois, see Parton, *Life of Jefferson*, pp. 651-653; Mowry, *Territorial Growth of the United States*, pp. 52-59; Barbé-Marbois, *History of Louisiana*, p. 274; Hosmer, *The Louisiana Purchase*, pp. 132-135; Ogg, *Opening of the Mississippi*, pp. 516-517; Adams, *United States*, vol. ii., p. 26. See also the conversation between Lucien, Joseph and Napoleon Bonaparte in Hosmer, pp. 72-112. For Napoleon's reasons, see also Howard, *The Louisiana Purchase*, p. 117 *et seq.* Napoleon seems to have seen far into the future when he said: "Objection may be made that the Americans will prove to be too powerful for Europe in two or three centuries; but my plans do not take into account these remote contingencies. They [the Americans] will have to give attention in the future to conflicts among the States of the Union. Confederations which call themselves perpetual last only so long as the contracting parties find it to their interest not to break them, and it is to other present dangers to which we are exposed from the colossal power of England that I propose to apply a remedy."

‡ Phelps, *Louisiana*, p. 188; McMaster, vol. ii., pp. 626-627. See also Ogg, *Opening of the Mis-*

issippi, pp. 517-519; Hunt, *Life of Madison*, p. 295; *American State Papers, Foreign Relations*, vol. ii., p. 552; Adams, *United States*, vol. ii., pp. 27-28; Hosmer, *The Louisiana Purchase*, pp. 137-138.

* See the letter sent to Jefferson by Monroe just before his departure giving his views on the issues at stake, in Monroe's *Writings*, vol. iv., pp. 5-7, excerpts being given in Ogg, *Opening of the Mississippi*, pp. 507-508.

† Carpenter, *The American Advance*, p. 40.

‡ Adams, *United States*, vol. ii., pp. 30-31; Gilman, *Life of Monroe*, p. 80.

|| Writing to the Secretary of State, April 13, Livingston suggested that, if the price were too great, the territory west of the Mississippi might be sold to some friendly power and the United States government be thus reimbursed. (*American State Papers, Foreign Relations*, vol. ii., p. 554.)

sioners finally acquiesced in this demand on condition that 20,000,000 francs of the total should be assigned to citizens of the United States in payment of their claims against France.* On April 30 the Louisiana purchase was concluded and four days afterward the instrument was signed by the three plenipotentiaries. The convention respecting American claims took longer and was not signed until May 8 or 9, though antedated April 30.† On that occasion Livingston ex-

pressed his satisfaction over the noblest work of his whole life.* Napoleon was much pleased with the bargain he had made. At first he had objected to the reduction in price, but when reminded that he himself had suggested 50,000,000 francs, he said:

"True;—the negotiation does not leave me anything to desire. Sixty millions for an occupation that will not, perhaps, last a day! I wish France to enjoy this unexpected capital; and that it may be employed in works beneficial to her marine. This accession of territory strengthens forever the power of the United States; and I have just given to England a maritime rival that will sooner or later humble her pride."†

* Phelps, *Louisiana*, p. 193; Ogg, *Opening of the Mississippi*, p. 520 *et seq.*; Moore, *American Diplomacy*, pp. 228-230.

† *American State Papers*, vol. ii., pp. 507-509. For the text of the treaty see Appendix I. at the end of the present chapter. See also *Revised Statutes Relating to the District of Columbia*, pp. 232-235 (ed. 1875); *Annals of Congress*, 7th Congress, 2d session, pp. 1004-1007; Thorpe, *Federal and State Constitutions*, vol. iii., pp. 1359-1362; MacDonald, *Select Documents*, pp. 161-165; *Treaties and Conventions of the United States*, pp. 266-286; *United States Statutes-at-Large*, vol. viii., pp. 200-206. For the two conventions, diplomatic correspondence and other documents, see *American State Papers, Foreign Relations*, vol. ii., pp. 507-583, or *Annals of Congress*, 7th Congress, 2d session, pp. 1007-1210; Snow, *Treaties and Topics in American Diplomacy*, pp. 46-49; Jefferson, *Account of Louisiana, being an Abstract of Documents in the Offices of the Departments of State and of the Treasury* (Philadelphia, 1803); the abstract in *Old South Leaflets* No. 103; *State Papers and Correspondence Bearing upon the Purchase of the Territory of Louisiana*, House Doc. No. 431, 57th Congress, 2d session; Ford's ed. of *Jefferson's Writings*, vol. viii., *Monroe's Writings*, vol. iv. Napoleon's order for the sale of Louisiana and the treaty and conventions are in Hosmer, *The Louisiana Purchase*, pp. 214-223. For general accounts see Adams, *History of the United States*, vol. i., chaps. xiii.-xvii., and vol. ii., chaps. i.-vi.; Lyman, *Diplomacy of the United States*, vol. i., chap. ix.; J. Q. Howard, *History of the Louisiana Purchase*; Binger Hermann, *The Louisiana Purchase*; Ripley

Hitchcock, *The Louisiana Purchase and the Exploration, Early History and Building of the West*; Roosevelt, *Winning of the West*, vol. iv., chap. vi.; Gayarré, *History of Louisiana*, vol. iii., chap. viii.; Morse, *Thomas Jefferson*, chap. xiv.; Daniel R. Godloe, *The Purchase of Louisiana*, in *Publications of the Southern History Association*, vol. iv., pp. 149-172; W. J. M. Sloane, *The World Aspects of the Louisiana Purchase*, in *American Historical Review*, vol. ix., pp. 507-521 (April, 1899); Thomas M. Cooley, *The Acquisition of Louisiana*, in *Indiana Historical Society Publications*, vol. ii., pp. 65-93; C. F. Robertson, *The Louisiana Purchase in its Influence upon the American System*, in *Papers of the American Historical Association*, vol. i., no. 4, pp. 253-290; N. P. Langford, *The Louisiana Purchase and Preceding Spanish Intrigues for Dismemberment of the Union*, in *Minnesota Historical Society Collections*, vol. ix., pp. 453-508; Charles W. Hall, *Napoleon and the Louisiana Purchase*, in *National Magazine*, vol. ii., pp. 381-386 (1900); E. E. Sparks, *The Diplomacy of the Louisiana Purchase*, in *Chautauquan Magazine*, vol. xxxiv., pp. 389-397 (1902); F. J. Turner, *The Significance of the Louisiana Purchase*, in *Review of Reviews* (May, 1903). There is a good bibliography in Gilman's *James Monroe*, Appendix, pp. 262-264.

* Parton, *Life of Thomas Jefferson*, p. 654.

† Alc   Fortier, *Louisiana under French and Spanish Control*, in *The South in the Building of the Nation*, vol. iii., p. 99; Ogg, *Opening of the Mississippi*, p. 532.

No one then pretended to know the actual boundaries of Louisiana. It was commonly understood that the territory extended northward to the source of the Mississippi, but the location of the latter was merely a matter of conjecture. Some believed that the purchase included Texas westward to the Rio Grande, because in 1684 LaSalle had landed at the Bay of St. Louis.* The general understanding, however, was that it included all the territory between the 42d parallel and the British territory on the north and west to the Pacific. This embraced the present States of Idaho, Oregon, and Washington. But Binger Hermann has shown that when the treaty was concluded no one supposed that the territory purchased extended beyond the Rocky Mountains or that by its terms any transmontane territory had been bought.† The area of the purchase was 875,025 square miles, nearly as great as the entire United States at that time, which comprised only 909,050 square miles. In general, the Louisiana purchase may be defined as including New Orleans, the island on which the city stands, and the entire Mississippi Valley west of the river, together with the north shore of the Gulf of Mexico westward to the Sabine. The region added was larger than the combined area of Great Britain, France, Germany,

Italy, Spain, and Portugal; seven times the size of Great Britain and Ireland; over four times the area of Germany, France and Austria; more than seven times that of Italy; over three times that of Spain and Portugal, and nearly ten times that of Turkey and Greece.* As everyone now knows, it is one of the most productive regions in the world, including lands specially adapted for agricultural pursuits and for ranching; including large tracts of valuable timber; and containing coal, oil, lead, iron, copper, silver, gold—indeed almost every mineral that ministers to modern civilization.‡

Jefferson, however, had serious misgivings as to the constitutionality of the treaty and was well aware that the course he had pursued would be subjected to severe scrutiny by the Federalist members of Congress.‡ Writing to John Breckinridge, of Kentucky, August 12, 1803, he speaks as follows:

"I suppose they [Congress] must then appeal to the nation for an additional article to the Constitution, approving & confirming an act which the nation had not previously authorized. The

* *Ibid.*, p. 36. See also Gannett, *Boundaries of the United States*, p. 19; Donaldson, *The Public Domain*, pp. 89-105; Sato, *The Land Question*, in *Johns Hopkins Studies*, series iv., vols. vii.-ix., pp. 40, 45.

† Hosmer, *History of the Louisiana Purchase*, pp. 183-184. A description of Louisiana was submitted to Congress by Jefferson, November 14, 1803. For text see *Annals of Congress*, 8th Congress, 2d session, pp. 1498-1525. A digest of the Louisiana laws was submitted November 29. See *Annals*, pp. 1526-1570.

‡ H. A. Bruce, *The Romance of American Expansion*, p. 48.

* See John R. Ficklen, *The Louisiana Purchase vs. Texas*, in *Publications of the Southern History Association*, vol. v., pp. 351-388.

† Binger Hermann, *The Louisiana Purchase and our Title West of the Rocky Mountains*, p. 70.

Constitution has made no provision for our holding foreign territory, still less for our incorporating foreign nations into our Union. The Executive in seizing the fugitive occurrence which so much advances the good of this country, *have done an act beyond the Constitution*. The Legislature in casting behind them metaphysical subtleties, and risking themselves like faithful servants, must ratify & pay for it, and throw themselves on their country, for doing for them unauthorized what we know they would have done for themselves had they been in a situation to do it.”*

It was arranged that ratification of the treaty be exchanged within six months from the date of signing. Dispatches from Livingston and Monroe gave the administration to understand that delay in the ratification was hazardous.† On June 3, 1803, Livingston wrote to Madison: “I must earnestly press you * * * to get the ratification as soon as possible, and to do all that on our part remains to be done. * * * How happy, my dear sir, are we to have concluded a treaty which will forever exclude us from the politics of this stormy quarter of the globe. I hope that you will not let it pass totally through your hands.”‡ Jefferson therefore called Congress together to take the necessary action.||

Before Congress assembled Jefferson drew up such an amendment to

the Constitution as he thought the necessities of the case required. At the same time he remarked to Breckinridge: “The less we say about constitutional difficulties respecting Louisiana, the better; * * * what is necessary for surmounting them must be done *sub silentio*.”* But while Jefferson still remained a strict constructionist of the Constitution, time and change of place had caused the members of the Cabinet to reverse their opinions, who, deeming Jefferson’s proposed amendment unnecessary, received it in respectful silence.† Jefferson then turned to his friends; but, receiving no encouragement, he again turned to the Cabinet, in August submitting for their approval another amendment essentially like the first.‡ It provided for annexing Louisiana to the United States, for giving its white inhabitants all the civil rights and obligations of citizens of the United States, for setting apart for the Indians the territory west of the Mississippi and above the Arkansas, etc.|| Jefferson suggested also that announcement be made that Florida would some day belong to the United States, and that, when “rightfully obtained,” it would, like

* Washington’s ed. of *Jefferson’s Works*, vol. iv., p. 498; Ford’s ed., vol. viii., pp. 242-244, note. See also Adams, *United States*, vol. ii., p. 84 *et seq.*

† *American State Papers, Foreign Relations*, vol. ii., p. 560.

‡ *Ibid.*, vol. ii., p. 563. See also Spears and Clark, *History of the Mississippi Valley*, p. 395.

|| Richardson, *Messages and Papers*, vol. i., p. 357.

* Morse, *Thomas Jefferson*, p. 250; Ford’s ed. of *Jefferson’s Writings*, vol. viii., p. 245, note; Adams, *United States*, vol. ii., p. 86.

† McMaster, vol. iii., p. 2; Ogg, *Opening of the Mississippi*, pp. 547-548; Ford’s ed. of *Jefferson’s Writings*, vol. viii., pp. 241-249.

‡ Washington’s ed. of *Jefferson’s Works*, vol. iv., pp. 501-505; Gallatin’s *Writings*, vol. i., p. 144.

|| Ogg, *Opening of the Mississippi*, p. 548.

Louisiana, be made a part of the United States.* Jefferson's secretaries again maintained silence, but his friend, Wilson C. Nicholas, declared that no amendment was needed, as the treaty-making power covered the case, and that, if the President's doubts regarding its constitutionality should become known, the Senate would, in all probability, reject the treaty.† To this Jefferson on September 7, 1803, replied as follows:

"I do not believe it was meant that [Congress] might receive England, Ireland, Holland, etc., into it, which would be the case of your construction. * * * I had rather ask an enlargement of power from the *nation*, when it is found necessary, than to assume it by a construction which would make our power boundless. Our peculiar security is in the possession of a written constitution. Let us not make it a blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty-making power boundless. If it is, then we have no constitution. * * * If, however, our friends shall think differently, certainly I shall acquiesce with satisfaction, confiding that the good sense of our country will correct the evil of construction when it shall produce ill effects."‡

When Congress convened, the Republicans, who were in the majority, elected Nathaniel Macon Speaker of the House. On October 17 Jefferson in his message gave the facts of the purchase and treaty, stating that as soon as the Senate would give constitutional sanction to the treaty, it

would be "communicated to the Representatives for the exercise of their functions as to those conditions which are within the powers vested by the Constitution in Congress." The President added that, while the acquisition of Louisiana would add \$13,000,000 to the public debt, the greater part of it would not be payable for fifteen years, at the end of which time the existing debt would probably be entirely discharged, and that, therefore, no additional taxes would be necessary.*

The opposition to the treaty was not so powerful as Jefferson had anticipated.† Only a remnant of the Federalist party now remained, but with them nothing Jefferson could do was right; the good he accomplished went for nothing; nor was the country ever to be safe again until the Federalists should once more hold the reins of government. Until then they must remain obstructionists and hinder the Administration in every way possible. All sorts of arguments were advanced against the purchase. Much was made of the fact that the leaders of the Administration had only recently declared against acquisition of territory beyond the Mississippi. Charges of inconsistency, vacillation,

* McMaster, vol. iii., p. 2.

† Adams, *United States*, vol. ii., pp. 87-88; Channing, *Jeffersonian System*, p. 75.

‡ See Ford's ed. of Jefferson's *Writings*, vol. viii., pp. 247-248, note; Washington's ed., vol. iv., p. 505. See also Adams, *United States*, vol. ii., p. 88 *et seq.*; Morse, *Thomas Jefferson*, p. 256 *et seq.*

* Richardson, *Messages and Papers*, vol. i., pp. 357-362; Ford's ed. of Jefferson's *Writings*, vol. viii., pp. 266-273; *Annals of Congress*, 8th Congress, 1st session, pp. 11-15; Benton, *Abridgment of Debates*, vol. iii., pp. 4-5.

† For a short summary of the arguments see Hart, *Foundations of American Foreign Policy*, p. 194 *et seq.*

duplicity, etc., were hurled against the President and the Secretary of State.* It was predicted that the East would become depopulated and that the emigrants to the West would probably organize a republic of their own and throw off the yoke of the United States. Others feared there were no common ties between the Indian fighters and trappers of the West and the commercial men of the East. Still others protested against adding so great a sum to the National debt as the purchase involved.†

But these arguments were of no avail, as the mass of the people considered the purchase a bargain. On October 19, therefore, the Senate ratified the treaty by a vote of 24 to 7; and, as the French chargé held the ratification of the French government, the ratifications were immediately exchanged. Thus, by a narrow margin, the two governments saved the treaty from being voided by the expiration of the time limit. This action was officially communicated to Congress on the 21st that they might provide for its execution,‡ and on the same day the injunction of secrecy as to the recent appropriation of the \$2,000,000 was removed.

* Ogg, *Opening of the Mississippi*, p. 543 *et seq.* See also Hart, *Foundations of American Foreign Policy*, p. 203.

† McMaster, vol. ii., pp. 628-630.

‡ Richardson, *Messages and Papers*, vol. i., pp. 362-363; Ford's ed. of *Jefferson's Writings*, vol. viii., p. 274; *Annals of Congress*, 8th Congress, 1st session, pp. 17-18; Benton, *Abridgment of Debates*, vol. iii., p. 6.

As was to be expected, the Federalists strenuously opposed such action. On October 24, 1803, Gaylord Griswold, of New York, introduced a resolution calling for the papers, including the treaty at San Ildefonso, the deed of cession from Spain to France under that treaty, and all other papers which would go to show how well founded the French title to Louisiana had been,* but the resolution was defeated by a vote of 59 to 57.† The attack was renewed the next day on new ground—that of unconstitutionality. It was urged that the treaty should not be ratified, because it provided for the incorporating of the inhabitants of the ceded territory into the Union with all the privileges of citizens of the United States. The opposition conceded that the United States could acquire territory, but only to hold as a perpetual colony or dependency, not to be brought into the Union as a State. The Federalist, Roger Griswold, said that

"A new territory and new subjects may undoubtedly be obtained by conquest and by purchase; but neither the conquest nor the purchase can incorporate them into the Union. They must remain in the condition of colonies and be governed accordingly. * * * The union of the states was formed on the principles of a co-partnership, and it would be absurd to suppose that the agents of the parties who have been appointed to execute

* *Annals*, p. 385; Adams, *United States*, vol. ii., p. 96.

† For the debate see *Annals*, pp. 386-419; Benton, *Abridgment*, vol. iii., pp. 53-57; McMaster, vol. iii., pp. 3-6; Adams, *United States*, vol. ii., p. 96; Carpenter, *The American Advance*, p. 45-46.

the business of the compact, in behalf of the principals, could admit a new partner without the consent of the parties themselves.”*

Joseph Nicholson, of Maryland, one of the ablest men on the Republican side, maintained that the

“Right to acquire territory was incident to every sovereign nation; that the states confederately had this power after their independence, and having surrendered it, with the power to declare war and make treaties, to Congress, first under the Confederation, and afterwards under the Constitution, it now belonged to the federal government; that territory can be acquired only by conquest or purchase; of which the first mode is given to Congress, in the power to make war, and the last to the President and Senate, in the power to make treaties; and lastly, that these powers are expressly taken from the states by the Constitution, and being essential to sovereignty, must exist somewhere.”

Again he said: “If I had been asked anywhere but in this House whether a sovereign nation had a right to acquire new territory, I should have thought the question an absurd one. It appears to me too plain and undeniable to admit of demonstration.”† True, but there was a great difference between what the *Nation* and what the *Government* could do. The nation had all the power that any sovereign nation possesses, whereas the Government had only such power as is delegated to it by the Constitution.‡ Rodney took an attitude calculated to meet the emer-

gency when he said: “I cannot perceive why within the fair meaning of this general provision [there] is not included the power of increasing our territory, if necessary for the general welfare or common defence.”* As a matter of fact, the Republicans were in a cruel dilemma. Tucker says that “the republican party now found that the very strict construction of the Constitution, for which they had contended when in the opposition, was not suited to them when in the exercise of power; and which, if pushed to that extreme of nicety, which some affected, would often defeat the main purposes for which the Constitution was established.”

The Federalists next attacked the treaty on the ground that the ships of Spain and France were to be admitted for twelve years into the ports of the ceded territory without paying higher duties than the American vessels, in defiance of those clauses of the Constitution which declare that no preference shall be given to the ports of one State over those of another, and that all duties, imposts, and excises shall be uniform throughout the United States. In reply, Nicholson said that the Territories of the United States did not constitute a part of the United States and did not become integral parts until admitted into the Union as States. The Territories were in the nature of colonies and might be governed without regard to the re-

* *Annals of Congress*, p. 461; Adams, *United States*, vol. ii., pp. 99-100.

† *Annals*, p. 467.

‡ Von Holst, *Constitutional and Political History*, vol. i., p. 188.

* *Annals*, p. 472.

strictions of the Constitution.' Randolph contended that the alleged preference given to New Orleans over the other ports of the Union did not present a constitutional difficulty, since such discrimination was to be considered as part of the price paid for the ceded territory; that by the treaty no preference was given to one State over another, since Louisiana was a territory and not a State.† On October 25 the resolution carrying the treaty into effect was passed in the House by a vote of 90 to 25, and the resolution providing the purchase money and a provisional government for the ceded territory by a vote of 85 to 7.‡ Another act was passed providing for the payment of \$3,750,000 to citizens of the United States holding claims against France, which under the treaty were assumed by the United States.¶

On October 26, by a vote of 26 to 6, the Senate passed a bill enabling the President to take possession of Louisiana,§ but the real debate did not begin until November 2, when the appropriation was under discussion. The arguments were similar to those used in the House, but more extreme.

James White, of Delaware, declared that, while he favored the acquisition of New Orleans and such other ports on the Mississippi as were necessary to open the river to navigation, that "as to Louisiana, this new, immense, unbounded world, if it should ever be incorporated into this Union, which I have no idea can be done except by altering the Constitution, I believe it will be the greatest curse that could at present befall us." Still further elucidating his reasons, White said:

"You had as well pretend to inhibit the fish from swimming in the sea as to prevent the population of that country after its sovereignty shall become ours. To every man acquainted with the adventurous, roving, and enterprising temper of our people, and with the manner in which our western country has been settled, such an idea must be chimerical. The inducements will be so strong that it will be impossible to restrain our citizens from crossing the river. Louisiana must and will become settled, if we hold it, and with the very population that would otherwise occupy part of our present territory. Thus our citizens will be removed to the immense distance of two or three thousand miles from the capital of the Union, where they will scarcely ever feel the rays of the general government; their affections will become alienated; they will gradually begin to view us as strangers; they will form other commercial connections, and our interests will become distinct. These, with other causes that human wisdom may not now foresee, will in time effect a separation, and I fear our bounds will be fixed nearer to our houses than the waters of the Mississippi."*

* *Annals*, p. 471.

† *Annals*, pp. 437-438. See also Adams, *John Randolph*, pp. 91-92; Adams, *United States*, vol. ii., pp. 98-99.

‡ See Benton, *Abridgment of Debates*, vol. iii., pp. 60-77; McMaster, vol. iii., pp. 7-10; *Annals*, pp. 431-489, 497-515, 545-549.

¶ McMaster, vol. iii., p. 10.

§ *Annals*, pp. 18, 26; Benton, *Abridgment*, vol. iii., pp. 8-9; Thorpe, *Federal and State Constitutions*, vol. iii., p. 1364.

* *Annals*, p. 34; Benton, *Abridgment*, vol. iii., pp. 10-11. Fisher Ames wrote: "Now by adding an immeasured world beyond the Mississippi we rush like a comet into infinite space. In our wild career we may jostle some other world out of its orbit; but we shall in every event quench the light of our own." See his *Works*, vol. i., p. 323. For similar expressions see *Memoirs of Manassah Cutler*, vol. ii., p. 138; Quincy, *Life of Josiah Quincy*, pp. 85, 205, 213; Quincy, *Memoir of John Quincy Adams*, pp. 29-30; Sullivan, *Public Men*,

Pickering considered the treaty unconstitutional because there was no power to make good its pledges, referring particularly to the incorporation of the people of Louisiana as provided for in the third article. He expressed the opinion that this could be done legitimately only by securing the consent of every State in the Union, which was manifestly impossible.* Uriah Tracy, of Connecticut, said:

"I have no doubt but we can obtain territory either by conquest or compact, and hold it. * * * but to admit the inhabitants into the Union, to make citizens of them, and States, by treaty, we cannot constitutionally do; and no subsequent act of legislation, or even ordinary amendment to our Constitution, can legalize such measures. If done at all, they must be done by universal consent of all the States or partners to our political association. And this universal consent I am positive can never be obtained to such a pernicious measure as the admission of Louisiana, of a world, and such a world, into our Union. This would be absorbing the Northern States, and rendering them as insignificant in the Union as they ought to be, if, by their own consent, the new measure should be adopted." †

This then was the crux of the oppo-

sition: the Eastern States feared that some day the West would dominate the Nation and hold the balance of power, and this anti-expansion excitement grew in New England to an almost uncontrolled passion, even inducing threats of secession during the present debate and the subsequent debate on the admission of Louisiana as a State.* John Breckinridge of Kentucky, made an able speech in reply, characterizing the purchase as a splendid transaction. Breckinridge said the question resolved itself simply into this: "Is the Confederacy more in danger from Louisiana, when colonized by American people under American jurisdiction, than when populated by Americans under the control of some foreign, powerful, and rival nation?" † This aspect of the matter was of great weight in influencing the Senators to acquiesce in the terms of the treaty, even John Quincy Adams saying: "I will cheerfully lend my hand to every act necessary for the purpose." ‡ On November 3 the bill appropriating the

p. 230 and *Life of William Plumer*, p. 262; Loring, *Hundred Boston Orators*, p. 263; cf. Barrows *United States of Yesterday*, chaps. i., ii.; Robertson, *The Louisiana Purchase in its Influence upon the American System*, in *Papers of the American Historical Association*, vol. i. (New York, 1885); and *An Inquiry into the Present State of the Foreign Relations of the Union as Affected by the Late Measures of Administration*. For a defence of Jefferson see Algernon Sidney, *Vindication of the Measures of the Present Administration* (Hartford).

* *Annals*, pp. 44-45; Benton, p. 13; Adams, *United States*, vol. ii., p. 105; Hosmer, *The Louisiana Purchase*, pp. 157-158.

† For the whole speech, see *Annals*, pp. 53-58; Benton, *Abridgment*, vol. iii., pp. 15-16; Adams, *United States*, vol. ii., pp. 107-108.

* On October 25, 1803, Griswold, of Connecticut, said in the House: "The vast unmanageable extent which the accession of Louisiana will give to the United States, the consequent dispersion of our population, and the distribution of the balance which it is so important to maintain between the eastern and western States, threaten, at no very distant day, the subversion of our Union." Senator Plumer, of New Hampshire, said: "Admit this western world into the Union, and you destroy at once the weight and importance of the eastern states, and compel them to establish a separate, independent empire."

† *Annals*, p. 61.

‡ *Annals*, p. 68.

purchase money was passed by a vote of 26 to 5—Pickering, James Hillhouse, and Tracy, of Connecticut, and William H. Wells and White, of Delaware, voting in the negative.* The decision left the New England States, which feared that the balance of power was inclining too strongly toward the South and West, quite discontented and almost ready for secession.†

Meanwhile the Spanish authorities in Louisiana had made every preparation to turn the province over to the French. Pierre Clement Laussat, recently appointed prefect to administer the civil affairs of the province, arrived at New Orleans on March 26, 1803.‡ Shortly after his arrival, Laussat sent home a detailed account of the conditions existing in the territory:

"The fortifications have never been kept up, and are falling into decay; the ditches are filling up; the terraces are crumbling down; the palisades are wanting or rotten; the bridges have given away or consist of only one or two beams; the gates are off their hinges, and are lying on the ground. * * * Justice is administered here worse than in Turkey. * * * Suits are so expensive that a good many individuals prefer to sacrifice their interests, however considerable they may be, than maintain them at law. The right of appeal to Cuba and to Madrid is a slow and ruinous remedy."||

Daniel Clark, the United States consul at New Orleans, confirms this description of the state of affairs in a

letter to the State Department at Washington in 1803, though Gayarré thinks both these accounts somewhat overdrawn. Clark says:

"All the officers plunder when the opportunity offers; they are all venal. A bargain can be made with the governor, intendant, judge, or collector, down to the constable; and if ever an officer be displeased at an offer of money, it is not at the offer or offerer, but because imperious circumstances compel him to refuse, and the offerer acquires a degree of favor which encourages him to make a second offer when a better opportunity is presented."*

On June 6 Napoleon designated Laussat as commissioner to receive Louisiana from the Spaniards and to deliver it to the American commissioners.† Spain expressed much indignation at these proceedings, and, had she dared, would have refused her acquiescence.‡

On November 30 the keys of the city were turned over to Laussat and the Spanish commissioners released from allegiance to Spain all those inhabitants who preferred to remain under French sovereignty.|| Laussat then issued a formal proclamation in-

* Gayarré, vol. iii., p. 584.

† Ogg, *Opening of the Mississippi*, pp. 590-591.

‡ Roosevelt, *Winning of the West*, vol. iv., p. 285. The Spanish minister, El Marquis de Casa Yrujo, in fact did write several letters protesting against the sale, resting his claim principally on the fact that France had not fulfilled her part of the treaty of San-Ildefonso and thus herself had a defective title to the cession. See Madison's letter to Monroe, October 10, 1803, *Madison's Works* (Congress ed.), vol. ii., p. 186; McMaster, vol. iii., p. 11.

|| King, *New Orleans*, pp. 157-161; Martin, *History of Louisiana*, vol. ii., chap. x.; King and Picklen, *History of Louisiana*, pp. 152-154; Gayarré, *History of Louisiana*, vol. iii., chap. x.

* *Annals*, p. 73; Benton, p. 20; Adams, *United States*, vol. ii., p. 113.

† Hosmer, *The Louisiana Purchase*, p. 160.

‡ Ogg, *Opening of the Mississippi*, pp. 579-581.

|| Gayarré, *History of Louisiana*, vol. iii., p. 582.

forming the people of Louisiana of the great change which was about to take place in their political relations and expressing regret that the French restoration was but temporary and ephemeral. In various ways he endeavored to reconcile the people to the sale, pointing out that soon they would be incorporated into a nation "which by its rapid progress seems destined to the most brilliant rank that a people ever enjoyed on the face of the earth." As the Spanish régime was now at an end, Laussat organized a temporary government to maintain order until the province should be transferred to the United States. The government consisted of an administrator-general, a treasurer, a mayor, two adjuncts, and a municipal council of ten members. The militia was re-officered and the famous Black Code, given to the province in 1724 by Beinville under authority of Louis XV., was temporarily revived.*

It was apprehended that after the withdrawal of the Spanish troops and the evacuation of the military posts the lower classes of the populace would create considerable disturbance and trouble. To prevent the possibility of this, a volunteer battalion of Americans was enrolled and placed under the command of Daniel Clark, the American consul. The Americans were soon joined by numbers of

French Creoles, and the battalion was more than 300 strong. These troops patrolled the city night and day until December 17, when the regular American troops arrived.*

Meanwhile Jefferson had appointed William C. C. Claiborne, then governor of the Mississippi Territory, and General Wilkinson, the American commissioners to receive the keys of the city on behalf of the United States,† Claiborne being appointed provisional governor.‡ On December 20, 1803, possession was taken of the province. The French officials proceeded to the City Hall, where the prefect delivered to the American commissioners the keys of the city, emblematic of the formal delivery of the province.¶ It was then declared

* Ogg, *Opening of the Mississippi*, p. 595; McMaster, *United States*, vol. iii., p. 11; Monette, *History of the Valley of the Mississippi*, vol. i., p. 56.

† Phelps, *Louisiana*, p. 195.

‡ Laussat seemed to think — and probably justly so far as Wilkinson was concerned — that the choice of these two was an unhappy one. Writing to Dechrès April 8, 1804, he says: "It is hardly possible that the government of the United States should have made a worse beginning, and that it should have sent two men (Messrs. Claiborne, governor, and Wilkinson, general) less fit to attract affection. The first with estimable private qualities, has little capacity and much awkwardness, and is extremely beneath his place; the second, already known here in a bad way, is a flighty, rattle-headed fellow, often drunk, who has committed a hundred impertinent follies. Neither the one nor the other understands a word of French or Spanish. They have on all occasions, and without delicacy, shocked the habits, the prejudices, the character of the population."—Gayarré, *History of Louisiana*, vol. iii., p. 10.

¶ King, *New Orleans*, pp. 162-163; Ogg, *Opening of the Mississippi*, pp. 597-599. The written

* Ogg, *Opening of the Mississippi*, p. 594; Martin, *History of Louisiana*, vol. ii., p. 197. For a synopsis of the Black Code, see Gayarré, *History of Louisiana*, vol. i., App.

that those inhabitants who desired to pass under the government of the United States would be absolved from their allegiance to the French Republic. After this the commissioners walked out on the balcony, where Governor Claiborne offered the people his congratulations on the auspicious event.* The French flag was then lowered and the flag of the United States raised, amid the shouts of the people.† The formal delivery of the more remote posts and other dependencies took place during the following spring.

No one understood better than the French prefect the far-reaching significance of the occasion. Writing to France, he said:

"The Americans have given \$15,000,000 for Louisiana; they would have given \$50,000,000 rather than not possess it. * * * In a few years the country as far as the Rio Brazos will be in a state of cultivation. New Orleans will then have a population of from thirty thousand to fifty thousand souls, and the country will produce sugar enough to supply America and part of Europe."‡

Meanwhile Congress had provided a

instrument of cession is in *Annals of Congress*, 8th Congress, 2d session, pp. 1230-1231; *American State Papers, Foreign Relations*, vol. ii., p. 582.

* *American State Papers, Foreign Relations*, vol. ii., p. 583; *Annals of Congress*, 8th Congress, 2d session, p. 1233. See also Carpenter, *The American Advance*, pp. 54-55.

† King, *New Orleans*, p. 165; Hosmer, *The Louisiana Purchase*, pp. 168-173; Spears and Clark, *History of the Mississippi Valley*, pp. 398-400; Sparks, *Expansion of the American People*, pp. 204-206.

‡ Martin, *History of Louisiana*, vol. ii., p. 244. See also Hosmer, *The Louisiana Purchase*, pp. 167-168.

government for the new territory. In his message of October 17, Jefferson had requested Congress to take measures "necessary for the immediate occupation and temporary government" of the newly acquired territory, and in a special message (October 21) again asked Congress to make "such temporary provisions * * * as the case may require."* John Randolph, chairman of the House committee appointed to consider this subject, soon reported a bill providing that the existing institutions of Louisiana should not be changed for the present and that the President should be fully empowered to administer the affairs of the territory until Congress decided on a permanent government.†

The Federalists immediately objected that the powers conferred on the President were unconstitutional. In effect, the Republicans replied that the Constitution had been made for the States and not for the Territories. Rodney said: "It shows that Congress have a power in the territories which they cannot exercise in the States, and that the limitations of power found in the Constitution are applicable to States and not to territories."‡ John Randolph defended the assumption of power on the ground of necessity, saying: "Gen-

* Richardson, *Messages and Papers*, vol. i., p. 363.

† The text is in *Annals of Congress*, 8th Congress, 1st session, App., p. 1245.

‡ *Annals of Congress*, pp. 512-514.

tllemen will see the necessity of the United States taking possession of this country in the capacity of sovereigns, in the same extent as that of the existing government of the province."* In spite of all opposition, however, the bill was passed by the House by a vote of 90 to 25 and by the Senate by a vote of 26 to 5, becoming law on October 31. On November 28 Breckinridge moved that a committee be appointed to draw up a definite and permanent form of government,† and he, Jackson and Baldwin, of Georgia, Wright, of Delaware, and John Q. Adams, of Massachusetts, were appointed.‡ On December 30 this committee reported the following scheme: The country was divided at the 33d parallel, all north of which was called the District of Louisiana and, after some dispute, was placed under the territorial government of Indiana Territory, consisting of a governor, secretary, and

judges (without a legislature), all controlled by the Ordinance of 1787. The northern district contained only a few white inhabitants, but the southern district, named the Territory of Orleans, contained an old and established society, numbering 50,000 persons. Breckinridge's bill created a territorial government in which the people of Louisiana had no share. The President was to appoint the governor and secretary for terms of three years; the legislative body consisted of thirteen members, appointed by the President without consulting the Senate and subject to the convening and proroguing of the governor. The judicial officers, also to be appointed by the President, were to hold office four years only. Trial by jury was restricted to cases involving over \$20 and to capital cases in criminal prosecutions. Slaves could neither be imported from abroad nor brought into the territory from the other States if imported after May 1, 1798. No slave could be brought into the territory, either directly or indirectly, save by an American citizen "removing into said territory for actual settlement, and being, at the time of such removal, *bona fide* owner of such slave," the penalty for violating this clause being \$300 fine and the freeing of the slave.*

In the debate in the Senate John Quincy Adams attempted to secure the passage of a resolution to the

* Benton says: "It was a startling bill, continuing the existing Spanish government; putting the President in the place of the King of Spain; putting all the territorial officers in the place of the King's officers, and placing the appointment of these officers in the President alone without reference to the Senate. Nothing could be more incompatible with our Constitution than such a government—a mere emanation of Spanish despotism, in which all powers, civil and military, legislative, executive, and judicial, were in the Intendant General, representing the King; and where the people, far from possessing political rights, were punishable arbitrarily for presuming to meddle with political subjects."—*Examination of the Decision of the Supreme Court in the Case of Dred Scott*, p. 55.

† *Annals of Congress*, 8th Congress, 1st session, p. 106.

‡ *Ibid.*, p. 211.

* Adams, *United States*, vol. ii., pp. 120-122.

effect that no constitutional power existed to tax the people of Louisiana without their consent, but only three Senators voted for the resolution. Other attempts to arrest the exercise of arbitrary power met with as little success, and, after six weeks of debate, the bill passed the Senate February 18, 1804, by a vote of 20 to 5.* In the House opinion differed widely. Some agreed with George W. Campbell that the bill "really establishes a complete despotism; that it does not evince a single trait of liberty; that it does not confer one single right to which [the inhabitants] are entitled under the treaty; that it does not extend to them the benefits of the Federal Constitution, or declare when, hereafter, they shall receive them."† Others sided with Eastis, of Boston, who said: "I am one of those who believe that the principles of civil liberty cannot suddenly be engrafted on a people accustomed to a regimen of a directly opposite hue. The approach of such a people to liberty must be gradual. I believe [the inhabitants] at present totally unqualified to exercise it. * * * I consider them as standing in nearly the same relation to us as if they were a conquered country."‡ But the House did not favor such centraliza-

tion of authority in the President's hands and by a vote of 74 to 23 struck out the section vesting legislative power in the council to be appointed by the President, substituting instead an elective territorial legislature after the first year. The restriction on the right of jury trial was rejected and the whole act limited to two years. In this amended form it was passed by the House on March 17 by a vote of 66 to 21.* The Senate refused to concur in the amendments save that relating to time limitation, which was reduced to one year.† The House accepted the Senate's compromise and on March 23, by a vote of 51 to 45, passed the bill in its original form save for the time clause.‡ It was approved by the President on March 26, 1804.¶ Jefferson then appointed Claiborne governor, Wilkinson military commander, and J. B. Prevost, a relative of Aaron Burr, justice of the district court.§

After the transfer of the province had been made by the French, Claiborne issued a proclamation reiterating the good intentions of the United

* *Annals of Congress*, pp. 233, 235, 238, 240, 241, 243, 245, 247, 250, 251, 255, 256; Quincy, *Memoir of John Quincy Adams*, p. 32; Benton, *Abridgment of Debates*, vol. iii., pp. 39-44.

† *Annals*, p. 1063.

‡ *Ibid.*, p. 1058; Benton, *Abridgment*, vol. iii., p. 145.

* *Annals*, p. 1199; Adams, *United States*, vol. ii., p. 124. For the entire debate see *Annals*, pp. 1054-1079, 1128-1130, 1185, 1189, 1191-1199; Benton, vol. iii., pp. 147-148, 152, 157-158.

† *Annals*, pp. 280, 288, 290, 293, 296.

‡ *Annals*, pp. 1206-1208, 1229-1230.

¶ For text see Thorpe, *Federal and State Constitutions*, vol. iii., pp. 1364-1371; *Annals*, pp. 1293-1300. See also Henry E. Chambers, *The Territory of Orleans*, in *The South in the Building of the Nation*, vol. iii., p. 102. For arguments respecting this bill, see McMaster, vol. iii., pp. 23-26.

§ Phelps, *Louisiana*, pp. 222-223.

States and exhorting the inhabitants to faithful allegiance to their new flag.* The laws and municipal regulations in force at the time of the cession were to continue unchanged pending the action of Congress, and Claiborne found himself in a position pregnant with trouble, for he knew nothing of the laws which he was supposed to enforce. Moreover, the inhabitants were suspicious and inclined to be rebellious; both the Spanish and the French hated the Americans, who were then becoming arrogant and inclined to "lord it" over the natives. Duels between the Creoles and the Americans were frequent; and there were hints emanating from Spanish sources of Spanish invasion or of French and Spanish designs jointly to recover the province.† At last news arrived from Washington to the effect that on March 23 the Breckinridge act had been passed providing for the government of the territory, but the proclamation of this measure only served to disconcert the people of Louisiana. Hardly a feature of it met with approval, while the prohibition of the importation of slaves was regarded as a direct blow at the prosperity of the older inhabitants.

Meanwhile the Spaniards had evinced no intention of evacuating Louisiana. Not until April of 1804

did the first detachment of troops set off for Pensacola, and not until July were the powder magazines opposite the city surrendered to the United States. By the treaty the Spanish forces were supposed to leave the territory within three months, yet for more than a year the commissioners, many officials, and army officers continued to abide in the city. It was rumored even that the recovery of the province was seriously meditated by Spain,* and many of the inhabitants feared to show respect to the new government lest when Spain again came into power they would suffer for their conduct. At a mass meeting June 1, 1804, a remonstrance was drafted by the Louisiana citizens and presented to Congress the following December protesting that they were fit for self-government and that the government as established violated the treaty, the Declaration of Independence, and the rights of man. They earnestly demanded that Louisiana be incorporated into the Union and that the law dividing the territory into two parts and forbidding the importation of slaves be repealed.† A somewhat similar document reached the House on January 4, 1805, from the people of St. Louis requesting that a permanent division of the territory

* McMaster, vol. iii., pp. 27-28.

* Gayarré, *History of Louisiana*, vol. iii., p. 620. For text see *Annals of Congress*, p. 1232.

† Ogg, *Opening of the Mississippi*, pp. 603-605.

† Chambers, *The Territory of Orleans*, in *The South in the Building of the Nation*, vol. ii., p. 104; Phelps, *Louisiana*, p. 224. For text see *American State Papers, Miscellaneous*, vol. i., pp. 396-399.

be made and suggesting a plan for the government of their territory.*

Before these petitions were presented, however, the day arrived (October 1, 1804) for the institution of the new government. Four of the thirteen members of the legislative council appointed by the President absolutely refused to serve, while others were awed into adopting a similar course, so that it was not until December 4 (after Claiborne himself had appointed substitutes for the refractory four) that the council was ready to begin its work. The chief business of its first session was the formation of the judicial system, the territory being divided into twelve counties, with an inferior court of one judge for each, a committee being appointed to prepare a civil and a criminal code.

Both Casa Calvo and Morales still lingering at New Orleans, Madison wrote Claiborne on August 28 that strong hints should be thrown out to them that after October 1, when the new government was to be inaugurated, their presence would no longer be required.† On October 9 Claiborne informed Casa Calvo that the United States desired that such Spaniards as did not intend to become American citizens leave American soil. Casa Calvo refused to leave, however, saying that he expected to be employed

in defining the boundary line between the United States and Mexico. This but strengthened the impression that Spain was planning a re-acquisition of Florida, especially as there were still 900 effective Spanish troops at Pensacola and West Florida, 300 at Baton Rouge, 80 at Mobile, besides those at Texas, believed to have been recently reinforced. It was rumored also that the Spaniards had concentrated 2,000 troops at a point nearly 240 miles distant from the mouth of the Sabine. Casa Calvo denied any hostile intent, however, saying that this concentration was merely preparatory to a withdrawal from the country.* Claiborne wrote: "There certainly must be a power somewhere vested to cause to be executed the clause in the treaty which directs 'the Spanish forces to be withdrawn (within three months) from the ceded territory'; and I should indeed be pleased to have it hinted to me, that in my character as commissioner or governor, I could, on this occasion, take (if necessary) compulsory measures."† But though Yrujo on September 4, 1803, had made formal protest against the cession,‡ Spain was prevented by her war with England from taking any step to nullify the sale. Hence Yrujo informed

* See the documents relative to this in *American State Papers, Foreign Relations*, vol. ii., p. 682 *et seq.*

† Claiborne to Madison, August 26, 1805, *American State Papers, Foreign Relations*, vol. ii., p. 682. See also Ogg, *Opening of the Mississippi*, pp. 612-613.

‡ *American State Papers, Foreign Relations*, vol. ii., p. 569.

* *American State Papers, Miscellaneous*, vol. i., pp. 400-404; McMaster, vol. iii., pp. 28-29.

† Madison's *Works* (Congress ed.), vol. ii., p. 203. See also p. 199.

Madison that he had been instructed to declare that his Catholic Majesty "had thought fit to renounce his opposition to the alienation of Louisiana made by France, notwithstanding the solid reasons on which it was founded, thereby giving a new proof of his benevolence and friendship toward the United States."* Therefore, the Administration did not worry over the alleged Spanish intrigues to recover Louisiana.

In January of 1805 the petition of the "Merchants, Planters and other Inhabitants of Louisiana"† was sent to a committee of the House of which John Randolph was chairman and which, in a report to the House,‡ recommended that the people of Louisiana be granted self-government. On the same day (January 29, 1805) a bill was introduced in the Senate, providing a new government for Orleans.¶ On February 7, 1805, another bill was introduced in the Senate providing self-government for the District of Louisiana,§ both bills being passed toward the close of that session of Congress. The District of

Louisiana now became the Territory of Louisiana, with a governor, secretary, and three judges; the Territory of Orleans was given a government like that of Mississippi and promised Statehood and admission to the Union when its free inhabitants numbered 60,000.* Instead of thirteen legislators appointed by the President, there were to be twenty-five elected by the people for two years. The upper house or legislative council was to consist of five members chosen jointly by the President and the Senate out of ten nominees selected by the House of Representatives of the Territory. These were to serve five years, subject to removal by the President. Pending its admission to statehood, Congress reserved the right to modify the Territory's boundaries when necessary.†

During 1805 the Spanish officials continued to stay in the territory. On June 10, 1806, Claiborne sent Casa Calvo a curt note requesting him to depart, a similar note being sent the next day to Morales. Both, under various pretexts, attempted to prolong their stay, but Claiborne insisting upon the faithful fulfilment of the President's instructions, they finally departed—Morales on February 1 and Casa Calvo on February 15.‡

* McMaster, vol. ii., p. 30; Chambers, *Territory of Orleans*, in *The South in the Building of the Nation*, vol. iii., pp. 104-105; *Annals of Congress*, 8th Congress, 2d session, pp. 1684-1686.

† The text of the act is in *Annals of Congress*, 8th Congress, 2d session, pp. 1674-1676; Thorpe, *Federal and State Constitutions*, vol. iii., pp. 1371-1373.

‡ Ogg, *Opening of the Mississippi*, pp. 620-623.

* Ogg, *Opening of the Mississippi*, pp. 613-614.

† The text of the petition will be found in *Annals of Congress*, 8th Congress, 2d session, pp. 1597-1608; and, in part, in Hart, *American History Told by Contemporaries*, vol. iii., pp. 377-380. There are excerpts in Gayarré, *History of Louisiana*, vol. iv., pp. 58-64.

‡ The report will be found in *Annals of Congress*, 8th Congress, 2d session, pp. 1015-1017; *American State Papers, Miscellaneous*, vol. i., pp. 417-418.

¶ *Annals*, pp. 45-46; Benton, *Abridgment of Debates*, vol. iii., pp. 166-167.

§ *Annals*, p. 51.

APPENDIX TO CHAPTER II.

THE LOUISIANA PURCHASE TREATY.

The President of the United States of America, and the First Consul of the French Republic, in the name of the French people, desiring to remove all source of misunderstanding relative to objects of discussion mentioned in the second and fifth articles of the convention of the 8th Vendémiaire, an 9 (30th September, 1800) relative to the rights claimed by the United States, in virtue of the treaty concluded at Madrid, the 27th of October, 1795, between his Catholic Majesty and the said United States, and willing to strengthen the union and friendship which at the time of the said convention was happily re-established between the two nations, have respectively named their Plenipotentiaries, to wit: the President of the United States, by and with the advice and consent of the Senate of the said States, Robert R. Livingston, Minister Plenipotentiary of the United States, and James Monroe, Minister Plenipotentiary and Envoy Extraordinary of the said States, near the Government of the French Republic; and the First Consul, in the name of the French people, Citizen Francis Barbé-Marbois, Minister of the Public Treasury; who, after having respectively exchanged their full powers, have agreed to the following articles:

Article I.—Whereas by the article the third of the treaty concluded at St. Idelfonso, the 9th Vendémiaire, an 9 (1st October, 1800,) between the First Consul of the French Republic and His Catholic Majesty, it was agreed as follows: "His Catholic Majesty promises and engages on his part, to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to His Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States." And whereas, in pursuance of the treaty, and particularly of the third article, the French Republic has an incontestible title to the domain and to the possession of the said territory: The First Consul of the French Republic desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French Republic, forever and

in full sovereignty, the said territory, with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic, in virtue of the above-mentioned treaty, concluded with His Catholic Majesty.

Article II.—In the cession made by the preceding article are included the adjacent islands belonging to Louisiana, all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private property. The archives, papers, and documents, relative to the domain and sovereignty of Louisiana and its dependences, will be left in the possession of the commissaries of the United States, and copies will be afterwards given in due form to the magistrates and municipal officers of such of the said papers and documents as may be necessary to them.

Article III.—The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

Article IV.—There shall be sent by the Government of France a commissary to Louisiana, to the end that he do every act necessary, as well to receive from the officers of His Catholic Majesty the said country and its dependences, in the name of the French Republic, if it has not been already done, as to transmit it in the name of the French Republic to the commissary or agent of the United States.

Article V.—Immediately after the ratification of the present treaty by the President of the United States, and in case that of the First Consul shall have been previously obtained, the commissary of the French Republic shall remit all military posts of New Orleans, and other parts of the ceded territory, to the commissary or commissaries named by the President to take possession; the troops, whether of France or Spain, who may be there, shall cease to occupy any

military post from the time of taking possession, and shall be embarked as soon as possible, in the course of three months after the ratification of this treaty.

Article VI.—The United States promise to execute such treaties and articles as may have been agreed between Spain and the tribes and nations of Indians, until, by mutual consent of the United States and the said tribes or nations, other suitable articles shall have been agreed upon.

Article VII.—As it is reciprocally advantageous to the commerce of France and the United States to encourage the communication of both nations for a limited time in the country ceded by the present treaty, until general arrangements relative to the commerce of both nations may be agreed on; it has been agreed between the contracting parties, that the French ships coming directly from France or any of her colonies, loaded only with the produce and manufactures of France or her said colonies; and the ships of Spain coming directly from Spain or any of her colonies, loaded only with the produce or manufactures of Spain or her colonies, shall be admitted during the space of twelve years in the port of New Orleans, and in all other legal ports of entry within the ceded territory, in the same manner as the ships of the United States coming directly from France or Spain, or any of their colonies, without being subject to any other or greater duty on merchandize, or other or greater tonnage than that paid by the citizens of the United States.

During the space of time above mentioned, no other nation shall have a right to the same privileges in the ports of the ceded territory; the twelve years shall commence three months after the exchange of ratifications, if it shall take place in France, or three months after it shall have been notified at Paris to the French Government, if it shall take place in the United States; it is however well understood that the object of the above article is to favor the manufactures, commerce, freight, and navigation of France and of Spain, so far as relates to the importations that the French and Spanish shall make into the said

ports of the United States, without in any sort affecting the regulations that the United States may make concerning the exportation of the produce and merchandize of the United States, or any right they may have to make such regulations.

Article VIII.—In future and forever after the expiration of the twelve years, the ships of France shall be treated upon the footing of the most favoured nations in the ports above mentioned.

Article IX.—The particular convention signed this day by the respective ministers, having for its object to provide for the payment of debts due to the citizens of the United States by the French Republic prior to the 30th Sept., 1800, (8th Vendémiaire, an 9,) is approved, and to have its execution in the same manner as if it had been inserted in this present treaty; and it shall be ratified in the same form and in the same time, so that the one shall not be ratified distinct from the other.

Another particular convention signed at the same date as the present treaty relative to a definitive rule between the contracting parties is in the like manner approved, and will be ratified in the same form, and in the same time, and jointly.

Article X.—The present treaty shall be ratified in good and due form, and the ratifications shall be exchanged in the space of six months after the date of the signature by the Ministers Plenipotentiary, or sooner if possible.

In faith whereof, the respective Plenipotentiaries have signed these articles in the French and English languages; declaring nevertheless that the present treaty was originally agreed to in the French language; and have thereunto affixed their seals.

Done at Paris the tenth day of Floréal, in the eleventh year of the French Republic, and the 30th of April, 1803.

ROBT. R. LIVINGSTON. [L.S.]

JAS. MONROE. [L.S.]

F. BARBÉ MARBOIS [L.S.]

CHAPTER III.

1800-1805.

WEST FLORIDA AND SAN DOMINGO.

Early cessions of the Floridas — Jefferson's policy — Livingston's attitude — Claims against Spain — The Mobile Bill — Jefferson's proclamation — Pinckney's negotiations in Spain — Monroe ordered to Madrid — Talleyrand's letter to Armstrong — Monroe's failure to adjust differences — Propositions of the Cabinet — Jefferson's message to Congress — Randolph's opposition to the purchase of Florida — Passage of the Two Million Bill — Restrictions on American commerce in San Domingo — Passage of act prohibiting trade with San Domingo.

When Monroe was sent abroad, he was instructed to buy Florida, but instead he purchased Louisiana. Jefferson therefore set about obtaining West Florida, knowing that, if he could secure possession of this, it would be but a matter of a few years before Spain, finding herself shut off from the United States on the north and west, would be willing to relinquish her right in East Florida.

To understand the boundary dispute at this time, we must go back a few years. In previous chapters we have seen how France had been driven out of America. By the treaty of November 3, 1762, after the French and Indian War, France divided her possessions in what is now the United States into two parts. The dividing line was the Mississippi from its source to the Iberville, thence down the Iberville to Lake Maurepas and along the northern shores of this lake and of Lake Pontchartrain to the northern part of Mexico. All east of this line was given to England, and

all west to Spain. England divided her territory as follows: a line was run from the junction of the Mississippi and the Yazoo rivers due east to the Appalachicola and down that river to the Gulf, and all the territory between these limits and the Mississippi on the west was named West Florida; all the country (in what is now the State of Florida) east of the Appalachicola was called East Florida.* In 1783 the northern boundary of West Florida was lowered to the 31st parallel and the two Floridas were then ceded to Spain. Thus Spain received the two Floridas from England, and not from France. In 1800, therefore, when by the treaty of San Ildefonso Spain bound herself to return Louisiana to France, she agreed to give back what France had given her in 1762, and not what England had given her in 1783. The territory embraced in West Florida had

* Gordy, *Political History*, vol. i., p. 461. See also French E. Chadwick, *The Relations of the United States and Spain — Diplomacy*, pp. 13-14.

nothing to do with the Louisiana cession to France,* but Jefferson reasoned that, as Spain owned West Florida and as West Florida was once a part of Louisiana and as, moreover, Spain had ceded Louisiana to France, West Florida was also included in the cession, and therefore that by the treaty with Napoleon (resulting in the sale to the United States) West Florida now belonged to the United States.† Disregarding the treaty of 1762, however, Jefferson set his heart on that part of West Florida to the Perdido.‡ To obtain West Florida two courses seemed open. He might take a conciliatory attitude, in which event it was not unlikely that Spain would act in the same spirit she had displayed in negotiating the treaty of 1785 and restoring the right of deposit in 1802. On the other hand, the President might alienate Spain and occupy Florida—a policy warmly urged by Livingston and Monroe. Hardly had the treaty for the purchase of Louisiana been signed when Livingston looked about for some way to

retrieve the disappointment, because the Floridas were not a part of the territory included in the treaty. He soon discovered what he sought. He learned that France had bought West Florida without knowing it, that France had sold it to the United States without suspecting it, that the United States had bought it without paying for it, and that neither France nor Spain, although the original contracting parties, was competent to decide the meaning of her own contract. Livingston seems to have been on both sides of the fence with respect to the Floridas. At first he believed the United States had no claim to West Florida as is proven by his letter of July 30, 1802, wherein he states that the Spanish ambassador at Paris had given

“ * * * his explicit assurance that the Floridas are not included in the cession [of Louisiana]. * * * I find them very anxious to have the ports of Pensacola and St. Augustine, as they dread our having command of the Gulf. I confess this appears to me no very important object, and if they would be content with these, and give us West Florida and New Orleans, even at a large price, we should not hesitate.
* * * ”

* Adams, *United States*, vol. ii., pp. 7-13. See also Peter J. Hamilton, *Colonial and Territorial Mississippi and Colonial and Territorial Alabama*, in *The South in the Building of the Nation*, vol. ii., pp. 332-370, 243-270; Schouler, *United States*, vol. ii., pp. 56-57.

† Fuller, *The Purchase of Florida*, pp. 143-145.

‡ McMaster, vol. iii., pp. 33-34. See also the report of Livingston and Monroe, June 7, 1803, sent to Madison, *American State Papers, Foreign Relations*, vol. ii., p. 564; Henry E. Chambers, *West Florida and the Historical Cartography of the United States*, in *Johns Hopkins University Studies*, series xvi., pp. 239-252; Ogg, *Opening of the Mississippi*, p. 637 et seq.

On September 1, 1802, he wrote to Madison: “I have every reason to believe the Floridas are not included. They will, for the present, at least, remain in the hands of Spain.”† But six months later he completely

* *American State Papers, Foreign Relations*, vol. ii., pp. 519-520.

† *Ibid.*, vol. ii., p. 525. Also letters of November 2, p. 526; December 20, p. 528; February 5, 1803, p. 532; March 24, p. 549.

changed his attitude, if not his mind, moved to the change probably by a conversation with Marbois, which conveyed the idea that Mobile was a part of the cession. Thus, in writing to Madison, May 20, 1803, he insisted that West Florida belonged to the United States* Livingston found no difficulty in convincing Monroe that they had bought Florida as well as Louisiana, and on June 7, 1803, the two ministers wrote to Madison that "the United States should act on it in all the measures relative to Louisiana, in the same manner as if West Florida was comprised within the Island of New Orleans; or lay to the West of the River Iberville."†

After making a careful study of these letters, Jefferson resolved upon a slightly different course. Instead of seizing West Florida and negotiating for East Florida, as Livingston and Monroe wished, he would negotiate for West Florida and leave East Florida alone for some time. As the summer of 1803 drew to a close, Jefferson's plan became clear. He proposed to have West Florida, to push this claim in connection with other claims, and to await the moment when Spain should be embroiled in a war between France and England.‡

These other claims involved France as well as Spain.* In August of 1802, Pinckney persuaded Godoy to lay the Spanish indemnity claim before a commission for settlement, but Godoy refused to recognize the French claims, taking the ground that Spain was in no way responsible for them, had not profited by them, and had no power to prevent them; that since France had committed the offence, she should pay for it. Pinckney could not see the force of this argument. Nevertheless, when Cevallos agreed to pay the Spanish claims, he promptly decided to accept an offer which secured to his fellow citizens from \$5,000,000 to \$10,000,000 of money, leaving the French claims to be settled later.† This convention was signed August 11, 1802,‡ and was sent to the Senate January 11, 1803,|| but was not acted upon owing to the failure to provide for both sets of claims.§

On September 4 and 27 Yrujo wrote to Madison saying that the United States had bought stolen goods when Louisiana was purchased, and that Spain, as the rightful owner, pro-

1803, in Washington's ed. of *Jefferson's Works*, vol. iv., p. 498.

* Fuller, *The Purchase of Florida*, pp. 95-96, 153 *et seq.*

† *American State Papers, Foreign Relations*, vol. ii., pp. 475-483.

‡ *Ibid.*, vol. ii., pp. 475-476; *Annals of Congress*, 7th Congress, 2d session, pp. 928-929.

|| *Annals of Congress*, 7th Congress, 2d session, pp. 22-23.

§ McMaster, vol. iii., pp. 34-35; Adams, *United States*, vol. ii., pp. 249-250. For the debate see *Annals*, pp. 299-301.

* *Ibid.*, vol. ii., pp. 560-561. See also Adams, *United States*, vol. ii., pp. 68-70, 246-247; Chadwick, *Relations of the United States and Spain*, pp. 64-67.

† *American State Papers, Foreign Relations*, vol. ii., pp. 563-565. For similar expressions see *ibid.*, pp. 561, 573.

‡ See his letter to Breckinridge, August 12,

tested against the sale.* But a few weeks later John Randolph asserted on the floor of the House that West Florida belonged to the United States.† In a speech on October 25 he reiterated this statement more explicitly and in greater detail.‡ A month later, on November 30, 1803, Randolph introduced a bill, known as the Mobile Bill, which nominally gave effect to the laws of the United States within the ceded territory. After much debate and disagreement, this bill passed both Houses and on February 24, 1804, received the President's signature.¶ This bill laid tonnage and import duties in Louisiana, established ports of entry and delivery, and marked out customs districts. By one section of the act the President was given power "to erect the shores, waters, and inlets of the Bay and River of Mobile and of the other rivers, creeks, inlets and bays entering in the Gulf of Mexico, east of the said River Mobile and west thereof to the Pascagoula, inclusive, in a separate district, and to establish such places within the same as he shall deem expedient to be the port of entry and delivery for such district."§

Not long after the convention of

1802 regarding the indemnity claims reached the United States, the Spanish minister, Yrujo, knowing that the omission of the French claims would lead to trouble, submitted the question in the form of a hypothetical case to five lawyers of high standing—Jared Ingersoll, William Rawle, Joseph B. McKean, Peter S. Du Pont, and Edward Livingston, and received an opinion favorable to his contentions.* On December 21, 1803, in the midst of the complicated debate respecting Louisiana and while the Mobile Act was under discussion, Jefferson sent the correspondence relating to the Spanish claims to the Senate, and among these papers was the opinion rendered by the five lawyers. Madison was much annoyed by this legal opinion and thought the Senate should bring these lawyers before the bar of judgment, under the law passed January 30, 1799, known as the Logan Act. Senator Stephen R. Bradley, of Vermont, moved for a committee, which reported in favor of directing the President to institute proceedings against the lawyers; but there were already too many prosecutions under way and the Bradley report was ignored. Inasmuch as new negotiations had to be opened with Spain regarding the ownership of West Florida, and in order to remove every trace of cause of irritation from

* The letters will be found also in *Annals*, pp. 1173-1175. See also Fuller, *The Purchase of Florida*, p. 113.

† *Annals*, p. 415.

‡ *Annals*, p. 440.

¶ Chadwick, *Relations of the United States and Spain*, p. 70.

§ Fuller, *The Purchase of Florida*, p. 122; McMaster, vol. iii., p. 31; Adams, *United States*, vol. ii., pp. 257-258.

* Chadwick, *Relations of the United States and Spain*, p. 72; *American State Papers, Foreign Relations*, vol. ii., pp. 604-605; *Annals of Congress*, 8th Congress, 2d session, pp. 1283-1285; Fuller, *The Purchase of Florida*, pp. 154-155.

the negotiation, the Senate on January 9, 1804, approved the Convention of 1802.*

The passage of the Mobile Bill thoroughly angered Yrujo, who stated that the bill violated the sovereignty of Spain, was an "atrocious libel against the government of this country" and "one of the greatest insults which one power can be guilty of towards another."† But he was informed that no boundary was fixed on the east and that the law applied only to the territory over which the United States claimed jurisdiction, which was only up to the Perdido River.‡ Yrujo denied this and demanded that the law be annulled,|| but as this was impossible, Jefferson took the next best course and in a proclamation of May 20, 1804, announced that "all of the shores, waters, inlets, creeks, and rivers lying within the boundaries of the United States shall constitute and form a separate district to be denominated 'the district of Mobile,'" and that Fort Stoddert should be the port of entry and delivery.§ As not a foot

of West Florida was "within the boundary of the United States," the force of the act was destroyed.*

Meanwhile Charles Pinckney, the American minister at Madrid, had been showing an extra want of discretion.† It was not the intention of the Administration to leave Pinckney unassisted, and it was supposed after the conclusion of the Louisiana treaty in May of 1803, that Monroe, in obedience to his instructions of July 29, 1803, and of April 15, 1804, would go to Madrid and take the negotiations from Pinckney's hands.‡ Instead, however, Monroe went to London. On learning of the change of plans, Madison on October 12, 1803, wrote to Pinckney to make no propositions to the Spanish government.|| But Pinckney, without waiting to learn whether Monroe's trip to London and the purchase of Louisiana would change the attitude of the Administration toward Spain, began to push the negotiations respecting the claims on Spain "in that positive and decided manner in which the circumstances of Europe and the particular situation of Spain seemed * * * to warrant."§ Cevallos parried this attack by showing Pinckney the written opinion obtained

* Acts of 8th Congress, 1st session, chap. xiii., sec. xi.; *United States Statutes-at-Large*, vol. ii., p. 254. See also McMaster, vol. iii., pp. 34-36; Adams, *United States*, vol. ii., pp. 259-260; Adams, *John Randolph*, pp. 77-78.

† Fuller, *The Purchase of Florida*, pp. 122-123.

‡ *American State Papers, Foreign Relations*, vol. ii., p. 576.

|| Channing, *The Jeffersonian System*, pp. 142-143.

§ Richardson, *Messages and Papers*, vol. i., p. 369; *American State Papers, Foreign Relations*, vol. ii., p. 583; *Annals of Congress*, 8th Congress, 2d session, p. 1234.

* McMaster, vol. iii., p. 32; Adams, *United States*, vol. ii., p. 263.

† For his earlier negotiations see Fuller, *The Purchase of Florida*, p. 99 et seq.

‡ *American State Papers, Foreign Relations*, vol. ii., pp. 614, 626-630; *Annals of Congress*, 8th Congress, 2d session, pp. 1297-1298, 1333-1346.

|| *American State Papers, Foreign Relations*, vol. ii., p. 570.

§ *Ibid.*, vol. ii., p. 597.

by Yrujo from the five American lawyers.* Both parties then appealed to the French ambassador at Madrid; but as Godoy had to pacify Bonaparte, who stood in need of Spanish support, Pinckney received little aid from the French ambassador. The government at Washington then placed new difficulties in Pinckney's path by ratifying the Spanish Claims Convention, January 9, 1804, the last article of which provided that it should not go into effect until ratified by both parties and that the ratifications should be exchanged as soon as possible. While the Senate had not performed its part of the compact, since it delayed ratification of the treaty for another year, it did not occur to that body when sending the treaty to Pinckney that the king of Spain might have changed his mind. On February 6, 1804, Madison sent the convention, duly signed, to Pinckney, instructing him in effect to press the reserved claims for French spoliation in Spanish ports.† These instructions reached Pinckney in May, and he at once went to Cevallos with the ratified convention, feeling sure that it would receive the prompt approval of Spain. But Cevallos hesitated, delayed, demurred, and during the discussion a copy of the Mobile Act, sent over by Yrujo, came to hand. Delighted to

find a new cause for delay, Cevallos declared the act a violation of the sovereignty of Spain, and on May 31 sent it to Pinckney with a demand for explanation.* On June 1 Pinckney replied in a somewhat dictatorial tone.‡

On July 2, 1804, after a month of bickering, Cevallos wrote to Pinckney declaring that Spain would ratify the convention if the article relating to damages done by the French cruisers to American ships were suppressed, if the Mobile Act were repealed, and if time were allowed for the subjects of Spain having claims against the United States to make ready and present their papers.§ As Pinckney read the letter, he seems to have gone mad with rage. Casting aside all diplomacy, all policy and all good sense, he wrote a letter to Cevallos on July 5 which surpassed all his previous indiscretions. In it he requested Cevallos to answer just one question — whether ratification was refused except on the conditions specified, and added:

"I wish to have your Excellency's answer as quickly as possible, as on Tuesday I send a courier with circular letters to all our consuls in the ports of Spain, stating to them the critical situation of things between Spain and the United States, the probability of a speedy and serious misunderstanding, and directing them to give notice thereof to all our citizens, advising them so to arrange and prepare their affairs as to be able to move off within the time limited by the

* *Ibid.*, vol. ii., p. 604. See also *Annals of Congress*, 8th Congress, 2d session, p. 1270.

† *American State Papers, Foreign Relations*, vol. ii., pp. 615-616; *Annals of Congress*, 8th Congress, 2d session, pp. 1300-1302.

* Fuller, *The Purchase of Florida*, p. 156.

‡ *American State Papers, Foreign Relations*, vol. ii., p. 618.

§ *Ibid.*, vol. ii., pp. 619-620. See also McMaster, vol. iii., p. 36; *Annals of Congress*, 8th Congress, 2d session, pp. 1313-1315.

treaty, should things end as I now expect. I am also preparing the same information for the commander of our squadron in the Mediterranean, for his own notice and government, and that of all the American merchant vessels he may meet.”*

Cevallos was greatly alarmed, but put on a bold front and on July 8, 1804, declared in a letter to Pinckney that he could not comprehend the motive for threatening, that he did not believe Pinckney had the authority of his government for such conduct, and that the negotiations would in future be carried on at Washington.† Pinckney was not to be overawed, however, and rejoined by sending off his couriers with the circular letter. On July 14 he informed Cevallos that the moment his affairs could be arranged, he would ask for his passport and quit Madrid.‡

The news of Pinckney's quarrel reached the United States in October, and on the 13th Yrujo wrote a formal letter to Madison repeating what had been said to Pinckney at Madrid.¶ In reply, October 15, Madison explained the language of the Mobile Act, deprecated the demand that the

French claims be abandoned, arguing that such condition of ratification was contrary to international law, and announced that a special minister would soon reach Madrid.‘ On the 26th Madison ordered Monroe to hasten to Spain,† informing him that Pinckney's recall had been requested by the Spanish government and that a letter of leave had been sent to him.

But while the letter to Monroe was being written, he was already on his way to Spain. On February 17, 1803, when about to set out for Paris and negotiate for the purchase of Orleans and the Floridas, Monroe had been joined with Pinckney in a commission to treat with Spain for the settlement of the claims not included in the convention of August, 1802. If the Island of Orleans and the two Floridas were not obtainable, this commission was to secure a right of deposit at New Orleans and places of deposit at the mouths of the Florida rivers, with their free navigation by citizens of the United States.‡ In May of 1803, when the Louisiana treaty was sent to America, Monroe prepared to join Pinckney at Madrid, but the sudden outburst of rage on the part of Spain caused Monroe to delay his departure, and while

* *American State Papers, Foreign Relations*, vol. ii., p. 620; *Annals of Congress*, pp. 1315-1316.

† *American State Papers, Foreign Relations*, vol. ii., pp. 620-621; *Annals of Congress*, pp. 1316-1319.

‡ *American State Papers, Foreign Relations*, vol. ii., pp. 621-624; *Annals of Congress*, pp. 1320-1327; Adams, *United States*, vol. ii., p. 281 *et seq.*; McMaster, vol. iii., p. 37; Chadwick, *Relations of the United States and Spain*, pp. 74-75.

¶ *American State Papers, Foreign Relations*, vol. ii., pp. 624-625; *Annals of Congress*, pp. 1327-1329.

* *American State Papers, Foreign Relations*, vol. ii., pp. 625-626; *Annals of Congress*, pp. 1330-1333.

† *American State Papers, Foreign Relations*, vol. ii., pp. 631-632; *Annals of Congress*, pp. 1348-1353.

‡ *American State Papers, Foreign Relations*, vol. ii., pp. 532-533.

he lingered at Paris he was appointed minister plenipotentiary to Great Britain, in the place of Rufus King, who had resigned. In July Monroe reached London, and was hard at work on the matter of impressment when he received his instructions to proceed to Madrid.* He was instructed to persuade Spain to acknowledge the Perdido as the eastern boundary of Louisiana, to endeavor to buy the Spanish possessions east of the Perdido for \$2,000,000, to secure payment for damages sustained at the hands of the French, and to insist upon the right of the United States to Texas. Should Spain be stubborn on this point, Monroe was to waive the western boundary question and to consent to separate Spanish and American dominions by a neutral belt into which the people of neither power should be allowed to go.†

The receipt of this letter and the news that Pinckney had quarrelled with Cevallos determined Monroe to proceed at once to Madrid. As his route lay through Paris, he resolved to stop there to seek French aid, but, France having already decided to throw her influence on the side of Spain, Monroe received little encouragement in that quarter. He was told

that the United States must pay money if she wished Spain to cede territory, and that only on the condition that Spain be suitably compensated might the negotiations succeed. Nevertheless Monroe determined to try again, and on November 8 sent a note to Talleyrand asking that the Emperor employ his good offices in support of the negotiations to be opened at Madrid. In that letter he touched on his present mission, recounted the causes of the previous quarrel with Spain, and alluded to West Florida, the Spoliation Claims, the Mobile Act, etc.* As time was precious, Monroe did not wait for a reply, but hastened to Madrid, leaving John Armstrong (who had just replaced Robert Livingston as minister to France) to receive Talleyrand's reply, which came December 21, 1804. It declared that the claim to West Florida was unfounded; that in 1803 France sold to the United States what she had received from Spain in 1800; that what she received in 1800 was a retrocession of what she had ceded to Spain in 1762; and that the cession to Spain in 1762 included the territory west of the Mississippi, the Iberville, and lakes Maurepas and Pontchartrain. Florida had been ceded to

* *American State Papers*, vol. ii., pp. 627-630. See also Adams, *Lives of Madison and Monroe*, p. 258.

† Madison to Monroe, *American State Papers, Foreign Relations*, vol. ii., pp. 631-632. See also Fuller, *The Purchase of Florida*, pp. 147-148, 157-158; McMaster, vol. iii., p. 38.

* *American State Papers, Foreign Relations*, vol. ii., pp. 634-635; *Annals of Congress*, pp. 1356-1360. See also McMaster, vol. iii., p. 39; Adams, *United States*, vol. ii., pp. 302-304; Channing, *The Jeffersonian System*, pp. 147-149; Adams, *Lives of Madison and Monroe*, pp. 260-261.

England.* This struck the ground from under Monroe's feet and left him to repent at leisure his defiance of Talleyrand's advice. Almost at the moment when Monroe arrived at Madrid, Godoy received a copy of Talleyrand's note. With Talleyrand's pledges of support in his hand, Cevallos could afford to meet the new American minister with perfect good humor.†

Though Pinckney had been recalled, Monroe upon his arrival at Madrid in January of 1805 decided to allow him to participate in the conferences and to put his name to the notes. Nearly a month was spent in preliminaries, but on January 28 Monroe and Pinckney submitted the project of a convention to Cevallos.‡ One article required Spain to acknowledge the Perdido as the eastern boundary of Louisiana; another established a temporary neutral belt; a third stipulated that a permanent boundary between the two countries be established before a certain time; a fourth provided for the appointment of commissioners to determine the damage due to each power; a fifth authorized these commissioners to ascertain and

fix the losses arising from the suspension of the right of deposit at New Orleans in 1802; and a sixth specified the manner in which the awards should be paid. On the 31st Cevallos replied that he would first examine each point separately and then proceed to negotiate. He proposed to begin with the Claims Convention of August, 1802.* On February 5 Monroe and Pinckney informed Cevallos that the United States could not consent to any arrangement which did not provide for the whole subject of the claims, including the French Spoliation Claims.† Passing these unnoticed, Cevallos rejoined on February 16, 1805, by discussing the conditions which the king had placed on his consent to ratify the Claims Convention of 1802. He first took up the Mobile Act. He expressed himself in strong terms regarding it, but withdrew his demand that the act be annulled, saying that the question of French Spoliation would be reserved for separate discussion. Monroe then invited discussion on the boundary question, but in his next note Cevallos discussed, instead, the French Spoliation Claims and the right of deposit at New Orleans.‡ To rebut the first, he pro-

* *American State Papers, Foreign Relations*, vol. ii., pp. 635-636; *Annals of Congress*, pp. 1360-1362; Chadwick, *Relations of the United States and Spain*, p. 81; Fuller, *The Purchase of Florida*, pp. 138-140.

† For the various letters passing between Monroe, Talleyrand, and Cevallos and the negotiations between Monroe and Talleyrand, see Adams, *United States*, vol. ii., chap. xiii.

‡ *American State Papers, Foreign Relations*, vol. ii., pp. 636-639; *Annals of Congress*, pp. 1364-1373.

* *American State Papers, Foreign Relations*, vol. ii., pp. 639-640; *Annals of Congress*, pp. 1373-1374.

† *American State Papers, Foreign Relations*, vol. ii., pp. 640-641; *Annals of Congress*, pp. 1374-1378.

‡ *American State Papers, Foreign Relations*, vol. ii., p. 643; *Annals of Congress*, pp. 1383-1387.

duced a letter from Talleyrand dated July 27, 1804, in which Napoleon had warned Spain and the United States not to touch these claims under penalty of incurring the Emperor's displeasure. Regarding the right of deposit, Cevallos said:

"The edict of the Intendant of New Orleans suspending the deposit of American produce in that city, did not interrupt, nor was it the intention to interrupt, the navigation of the Mississippi; consequently, these pretended injuries are reduced to this small point, that for a short time, the vessels loaded in the stream instead of taking in their cargoes at the wharfs."

He then stated that the Americans had enjoyed the right of deposit four years longer than was guaranteed in the treaty and had made New Orleans the centre of a scandalous contraband trade. Finally, he informed them of the right of the Intendant to prohibit the deposit.* This sharp note almost determined Monroe to discontinue the negotiation; but as his instructions authorized him to abandon the *entrepôt* claims, he decided to continue. Before he had time to prepare a reply, however, Cevallos wrote him again on February 24, 1805, discussing the West Florida boundary. His argument contained no new points, however, and it was evident that he merely wished to draw the Americans into endless discussions.† On February 26, 1805, Monroe and Pinckney

replied to the note regarding the claims,* but without effect. In this letter Monroe spoke of Napoleon's order forbidding recognition of the claims, and repeated his former assertion that he must insist upon these claims. On March 1, 1805, however, after two months spent in such negotiation, he found himself at the starting point, having made absolutely no progress.

Early in February Monroe received Talleyrand's letter of December 21, 1804, regarding the boundary of West Florida, and later was informed of Talleyrand's order of July 27, 1804, forbidding Spain to pay or even discuss the French Spoliation Claims. On March 1, therefore, Monroe wrote to Armstrong at Paris that, if the United States would remain firm, undoubtedly France would not meddle in the negotiations with Spain, but, on the contrary, would be likely to use her influence to promote an amicable adjustment on fair principles between Spain and the United States. The chief reasons impelling France thus to act were that she depended on us for supplies and the fear that we might come to a good understanding with England. He expressed the opinion that it would only be necessary to show France that a rupture with Spain was likely owing to French support of the Spanish pretensions, to

* *American State Papers, Foreign Relations*, vol. ii., p. 644; *Annals of Congress*, p. 1385.

† *American State Papers, Foreign Relations*, vol. ii., pp. 644-646; *Annals of Congress*, pp. 1388-1392.

* *American State Papers, Foreign Relations*, vol. ii., pp. 646-649; *Annals of Congress*, pp. 1393-1403.

induce her to change her policy and tone.*

In reply, the French minister stated that he saw no reason to change his opinion regarding the boundary and that in the event of a rupture between the United States and Spain, France would take Spain's side.† Before Monroe received this reply, Cevallos had been discussing the West Florida boundary.‡ On March 30, 1805, having reached no definite conclusion, Monroe wrote to Cevallos that he was weary of delay|| and later (on April 9) informed him that he considered the negotiations at an end.§ Cevallos took no notice of these threats, and on April 13 sent a note to Pinckney and Monroe stating his view regarding the Texas boundary question. He said that the dividing line between Louisiana and Texas ought to be a line drawn between the French and Spanish settlements. This boundary would deprive the United States not only of Texas, but of much of the territory which was afterward included in the State of Louisiana.¶ Monroe

then tried to settle the whole matter in a private interview, but without avail. Finally, on May 12, he sent an ultimatum to the Spanish government in which he said that, if Spain would cede the Floridas, ratify the convention of August 11, 1802, and accept the Colorado as the Texas boundary, the United States would assume the French Spoliation Claims, abandon the *entrepôt* claims, accept the cession of West Florida from the king (thereby abandoning the claim that it was a part of Louisiana) and establish a neutral belt 100 miles wide on the eastern bank of the Colorado from the northern boundary of Louisiana to the Gulf of Mexico.* On the 15th Cevallos replied objecting to this proposal and making a counter-proposition.† But Monroe was then so thoroughly disgusted that he demanded his passports and left the country May 26.‡ Pinckney lingered for some time and was compelled to undergo still further humiliation; but in October he, too, departed for America, leaving the legation at Madrid in charge of George W. Erving.||

* Adams, *United States*, vol. iii., pp. 30-31, from Mss. in State Department Archives.

† *American State Papers, Foreign Relations*, vol. ii., p. 636.

‡ For letters see *Annals of Congress*, pp. 1403-1427.

|| *American State Papers, Foreign Relations*, vol. ii., p. 657; *Annals of Congress*, p. 1428.

§ *American State Papers, Foreign Relations*, vol. ii., pp. 658-659; *Annals of Congress*, pp. 1429-1432.

¶ *American State Papers, Foreign Relations*, vol. ii., pp. 660-662; *Annals of Congress*, pp. 1435-1441; Fuller, *The Purchase of Florida*, pp. 158-159.

* *American State Papers, Foreign Relations*, vol. ii., p. 665; *Annals of Congress*, pp. 1451-1453. See also McMaster, vol. iii., p. 40; Adams, *United States*, vol. iii., p. 35; Fuller, *The Purchase of Florida*, p. 159.

† *American State Papers, Foreign Relations*, vol. ii., p. 666; *Annals of Congress*, pp. 1453-1455.

‡ Monroe's account of this episode is given in a letter to Madison, *Monroe's Writings*, vol. iv., p. 303; *American State Papers, Foreign Relations*, vol. ii., pp. 667-669; *Annals of Congress*, pp. 1456-1461.

|| Chadwick, *Relations of the United States and Spain*, p. 84.

Hardly had Jefferson been inaugurated for the second time when dispatches began to arrive from Europe foreboding disaster. Talleyrand's letter to Armstrong of December 21, 1804, with its announcement that Napoleon meant to oppose every step of Monroe's negotiation at Madrid and the declaration that West Florida had not been included in the retrocession of Louisiana to France, reached Washington. Jefferson thereupon began to consider the next step, and turned for advice first to Madison and then to the respective Secretaries. Madison favored dropping the questions which had caused the rupture, beginning another negotiation with Spain and taking up such points as Monroe and Pinckney had not considered.* On August 4, however, Jefferson wrote a note saying that we would take up arms, form an alliance with England, and stipulate that peace should not be made with Napoleon until West Florida and the Spoliation Claims had been secured to the United States.†

About the middle of September Jefferson received Armstrong's letter urging him to seize Texas and break off intercourse with Spain. This struck Jefferson favorably, and on

September 16 he wrote to Madison as follows:

"Supposing a previous alliance with England to guard us in the worst event, I should propose that Congress should pass acts: (1) authorizing the Executive to suspend intercourse with Spain at discretion; (2) to dislodge the new establishments of Spain between the Mississippi and Bravo; (3) to appoint commissioners to examine and ascertain all claims for spoliation."*

But before any action could be taken and even before Congress met, news arrived from England which entirely changed the aspect of affairs. England began to seize American ships, a new restriction was laid on neutral trade, and henceforth all thought of an alliance with England was abandoned. When the Cabinet met on November 12, 1805, the Spanish matter was taken under consideration, the following offer to Spain being made:

"(1) A sum of money for the rights of Spain east of Iberville, say the Floridas; (2) To cede that part of Louisiana from the Rio Bravo to the Guadalupe; (3) Spain to pay within a certain time spoliations under her own flag, agreed to by the convention (which we guess to be one hundred vessels, worth two millions), and those subsequent (worth as much more), and to hypothecate to us for those payments the country from Guadalupe to Rio Bravo, Armstrong to be employed. The first was to be the exciting motive with France, to whom Spain is in arrears for subsidies, and who will be glad also to secure us from going into the scale of England; the second, the soothing motive with Spain, which France would press *bona fide*, because she claimed the Rio Bravo; the third to quiet our merchants. It was agreed to unanimously, and the sum to be offered fixed not to exceed five million dollars."‡

* Fuller, *The Purchase of Florida*, p. 160; Adams, *United States*, vol. iii., pp. 59-60.

† Ford's ed. of Jefferson's *Writings*, vol. viii., p. 374. See also Chadwick, *Relations of the United States and Spain*, pp. 87-89; Fuller, *The Purchase of Florida*, p. 160; Adams, *United States*, vol. iii., pp. 65-66; McMaster, vol. iii., p. 209. For Gallatin's opinion see his *Writings*, vol. i., pp. 237-254.

* Washington's ed. of Jefferson's *Works*, vol. iv., p. 587. See also his letter to Gallatin in Ford's ed. of Jefferson's *Writings*, vol. viii., p. 350.

‡ Ford's ed. of Jefferson's *Writings*, vol. i.,

The Spanish in Louisiana, with the exception of those desiring to become American citizens, were to be asked to depart. But, instead of departing, the Spanish soldiers in New Orleans lingered on, in defiance of the terms of the treaty. Claiborne and Wilkinson wrote that the garrisons at Mobile and Baton Rouge had been strengthened, that a fort had been built on the Trinity River, that a regular patrol was maintained on the Sabine, that troops were gathering at Nacogdoches and Matagorda, and that hundreds of families were on the way from Old Spain to settle in Texas*. Furthermore, every American vessel in attempting to pass Mobile was compelled to pay a duty of 12 per cent. on the value of the cargo, even though all the goods in the hold belonged to the United States.† This more than ever determined Jefferson to buy the Floridas, and he was willing, as we have seen, to pay as high as \$5,000,000 for them. A letter from Armstrong confirmed Jefferson in the opinion that he should act immediately.‡ It appears that Talleyrand suggested that the United States address another note to Spain, so worded as to awaken Spain from her indifference; that Godoy be warned of

the consequences of persisting in his present course, and be directed to submit the subject to arbitration. If Spain refused to do this, Armstrong, the suggestion continued, was to send a copy of this note to Talleyrand, requesting Napoleon to interpose. If Spain or the Emperor's representatives should consent to sell the Floridas, France would propose the following terms: that the western boundary of Louisiana be the Rio Colorado to its source, and a line northwesterly including the head-waters of this river flowing into the Mississippi; that a strip 36 leagues on each side of this line be the permanent borderland; the claims against Spain, save those of the French spoliations, be paid by bills on the Spanish colonies; that Spain be granted the same commercial privileges in Florida as she then enjoyed in Louisiana and Orleans; and that the United States should pay \$10,000,000.* Armstrong immediately rejected these terms, but on September 4, when Napoleon returned to Paris, he held a long conversation with the latter and was informed that the sum might be \$7,000,000, instead of \$10,000,000. Armstrong replied that he would transmit Talleyrand's memorandum to the President, which he did on September 10, 1805.† When Armstrong's dispatch arrived, the Cabinet was again assembled and the

p. 308. See also his letters in *ibid.*, vol. viii., pp. 379, 381, note. The "Cabinet Decision" is on pp. 383-384.

* Fuller, *The Purchase of Florida*, pp. 160-161.

† See the documents in *American State Papers, Foreign Relations*, vol. ii., pp. 669-695.

‡ Channing, *The Jeffersonian System*, pp. 150-151.

* Fuller, *The Purchase of Florida*, p. 162.

† Adams, *United States*, vol. iii., pp. 103-105; McMaster, vol. iii., pp. 211-212; Chadwick, *Relations of the United States and Spain*, pp. 93-94.

matter laid before it. Jefferson records the result of their deliberation as follows:

"We now agree to modify our propositions, so as to accommodate them to his as much as possible. We agree to pay five million dollars for the Floridas. * * * We agree to [Talleyrand's] proposition that the Colorado shall be our western boundary, and a belt of thirty leagues on each side of it to be kept unsettled; we agree that joint commissioners shall settle all spoliations, and to take payment from Spain by bills on her colonies. We agree to say nothing about the French spoliations in Spanish ports which broke off the former convention. We propose to pay the five millions after a simple vote of credit, by stock redeemable in three years."*

Thus, Jefferson would not pay more than \$5,000,000 for the Floridas, and part of this was to be offset by the spoliation claims believed to approximate \$3,000,000. The remainder was to be obtained by special act of Congress. To ask outright for this sum Jefferson knew would be disastrous. He therefore followed the course which he had pursued on a previous occasion. He sent the papers to Congress without any indication of his wishes, but made known his desires privately to members of the committee in charge of the message and the papers.† Furthermore, he drew up the resolutions in the form in which he wished the committee to make the report.‡ He did not send instructions to Armstrong at once, however, because the authority of

Congress was needed before pledging the government to pay so great a sum; but as Congress was to meet within a few weeks, Jefferson could safely assume that the instructions would not be delayed beyond the new year.

The Ninth Congress commenced its first session on December 2, 1805. On December 3 the President's annual message was sent to Congress. After mentioning the yellow fever epidemic, he passed on to foreign relations, dealing chiefly with the depredations committed on the commerce of the United States by the armed vessels of England, France and Spain. He said that new principles had been interpolated in the laws of nations without either justice or precedent; that the negotiations with Spain to settle the differences had not resulted satisfactorily; that our commerce on the Mobile continued to be obstructed by arbitrary duties and vexatious searches; that Spanish subjects had made inroads into the territories of Orleans and Mississippi and had seized the American citizens and plundered their property; and that he would send a special communication giving other details necessary for the full information of the members.* Three days after the annual message had been read, a special and secret

* Ford's ed. of *Jefferson's Writings*, vol. i., p. 309.

† Fuller, *The Purchase of Florida*, p. 163.

‡ Schouler, *United States*, vol. ii., pp. 111-112.

* Richardson, *Messages and Papers*, vol. i., pp. 382-388; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 384-396; *Annals of Congress*, 9th Congress, 1st session, pp. 11-16; Benton, *Abridgment of Debates*, vol. iii., pp. 346-348.

message followed.* Jefferson requested that the matter be considered in secret, but, to the surprise of Congress, the President made no recommendations, suggested no means of settlement and made no request for either money, gunboats, or troops.

After reading this message, the House was more perplexed than ever. The message was referred to a select committee of seven members, with Randolph at its head, his friend Nicholson second, and John Cotton Smith, a vigorous Federalist, third, with Barnabas Bidwell, the new member from Massachusetts, the only member of the committee on whom the President could depend. According to his own story, Randolph immediately went to the President to have the message explained; but learned, to his surprise, that an appropriation of \$2,000,000 was wanted to purchase Florida.† He told the President unreservedly that he would not support such a request, because the money had not been asked for in the message; because he could not consent to shift upon his own shoulders or those of the House the probable responsibility of the Executive; and because, even if the money had been explicitly requested, he

could not have approved the appropriation, for to offer money after negotiation had failed would disgrace the country forever.* When the committee met the next day (December 7) it was found that Bidwell alone supported the Administration. Another member, Nicholson, had in his pocket the resolutions which the President desired the committee to report.‡ Bidwell undertook to construe the message as a demand for money and proposed that the grant be recommended; but the rest of the committee following Randolph in professing to find no such meaning in the message, the motion was lost. The committee then adjourned and Nicholson in disgust carried back the resolutions to Gallatin with a brief expression of his own decided disapproval.§ The committee did not meet again for two weeks, but in the meanwhile Jefferson and Madison labored hard to change Randolph's decision. Madison informed Randolph that France would not permit Spain to adjust her differences with us; that France wanted money and we must give it to her or have a Spanish and French war.|| If Madison said this, he told the truth; but Randolph made an unfair use of the confidential words and proceeded

* Richardson, *Messages and Papers*, vol. i., pp. 388-390; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 397-402; *Annals of Congress*, pp. 18-19; Benton, *Abridgment*, pp. 348-349. The accompanying documents are in *American State Papers, Foreign Relations*, vol. ii., pp. 613-669; those relating to depredations, 669-695.

† Fuller, *The Purchase of Florida*, p. 163.

* Adams, *John Randolph*, p. 166 *et seq.*; Chadwick, *Relations of the United States and Spain*, p. 97; McMaster, vol. iii., p. 213; Adams, *United States*, vol. iii., pp. 132-133; Gordy, *Political History*, vol. i., p. 496.

‡ Channing, *The Jeffersonian System*, p. 153.

§ Fuller, *The Purchase of Florida*, p. 164.

|| *Annals of Congress*, 9th Congress, 1st session, pp. 947, 984-985.

to use them as an excuse for a public and personal war on the Secretary of State.*

But all the arguments of Jefferson and Monroe were unavailing. On December 14 Randolph, stubbornly refusing to act, went to Baltimore, leaving the President helpless. Since every delay imperilled Armstrong's success, Jefferson appealed to Nicholson, but the latter could not be persuaded to use his influence to further the President's project. When Randolph returned on December 21, he was met by Gallatin, who thrust into his hands a paper entitled "Provisions for the Purchase of Florida." This had an effect directly opposite to that intended. Randolph broke out in a rough tirade saying that he would not vote a shilling to purchase Florida, and that the President should not be allowed to throw upon Congress the odium "of delivering the public purse to the first cut-throat that demanded it." He said also that Jefferson was posing before the country as a bold and energetic executive, while in secret he was asking Congress to adopt tame measures. The committee was then called together, and Randolph had no difficulty in carrying matters with a high hand. Instead of recommending an appropriation, the committee instructed Randolph to request an opinion from the Secretary of War as to the force necessary to protect the

Southern frontier.* Though Christmas was already at hand, not a step had been taken. Nothing could be done with Randolph, who in a final interview with Jefferson, flatly avowed his determination to oppose the whole scheme of buying Florida. It was now clear that Jefferson must choose between the alternatives of abandoning all hope of purchasing Florida and of quarrelling with Randolph. Though much averse to a quarrel, Jefferson accepted the challenge, and in a few weeks Congress and the whole country knew that a schism existed in the Republican party.†

The report of the select committee was made to Congress on January 3, 1806.‡ It declared that the aggressions of Spain afforded ample cause for war; but, as peace was desirable for the United States on every account, the hope was expressed that Spain would not proceed to extremities, but would honorably fulfill her engagements. The United States could not afford to go to war, since she was burdened with a debt which absorbed two-thirds of the revenue. After the debt had been paid the United States might be able to defy the world, but until such time the interests of the Union would be best conserved by peace. Yet, in conse-

* Gordy, *Political History*, vol. i., p. 497.

† Fuller, *The Purchase of Florida*, p. 164; McMaster, vol. iii., p. 214; Adams, *United States*, vol. iii., pp. 135-137; Morse, *Thomas Jefferson*, p. 276 *et seq.*

‡ *Annals of Congress*, 9th Congress, 1st session, pp. 1117-1118.

* *Annals of Congress*, pp. 947, 985; Adams, *United States*, vol. iii., p. 134.

quence of the insulting character of the Spanish proceedings, the committee recommended "that such a number of troops as the President should deem sufficient to protect the Southern frontier from insult should be immediately raised." This was not what Jefferson wished; his desire was for money, not troops. War was very repugnant to him, and he thought much more could be accomplished with money than by fighting for Louisiana and Florida. Randolph sturdily opposed everything of the sort as derogatory to the dignity and independence of the country, considering it not unlike putting ourselves under tribute whenever France or any other European nation saw fit to exact it.

Meanwhile Jefferson had made known his wishes to other members of the House, and on the same day Bidwell, of Massachusetts, introduced a resolution providing "that an appropriation be made for the purpose of defraying any extraordinary expenses that might be incurred in the intercourse between the United States and foreign nations to be applied under the direction of the President."† If this money were not in the treasury, it was to be borrowed. But another resolution was introduced calling for the continuance of the *ad valorem* duty of 2½ per cent., the proceeds of which were commonly known as the Mediterranean Fund.

A third resolution was introduced declaring that the House would approve any boundary securing to the United States the regions watered by the Mississippi and to the eastward.* These three resolutions were referred by the House to the Committee of the Whole with closed doors.† On January 6, 1806, the debate began, Randolph straining every nerve to break the phalanx of Democrats which threatened to overwhelm him. Nevertheless, in spite of every effort, the Administration carried its point, and when the vote was reached 72 members supported the President, while 58 voted against him. Having recovered control of the matter, the House next passed a bill appropriating \$2,000,000 for extraordinary expenses in foreign relations, and on January 16 it was sent to the Senate by a vote of 76 to 54.‡ The Senate was informed by a communication sent with the bill that the money was needed to enable the President to purchase the Spanish territories east of the Mississippi, and, on February 7, 1806, after a short debate, it passed the bill which on February 13 received the President's approval.¶ Not until March 13, six months after Arm-

* Fuller, *The Purchase of Florida*, p. 165.

† McMaster, vol. iii., pp. 214-215; Adams, *United States*, vol. iii., p. 137.

‡ *Annals of Congress*, 9th Congress, 1st session, pp. 1120-1140; Schouler, *United States*, vol. ii., p. 113.

¶ Acts of 9th Congress, 1st session, chap. v.; *United States Statutes-at-Large*, vol. ii., p. 349; *Annals of Congress*, 9th Congress, 1st session, pp. 1226-1227.

* Schouler, *United States*, vol. ii., p. 113.

† *Ibid.*, vol. ii., p. 113.

strong's dispatch had been written, did Madison authorize Armstrong to offer France \$5,000,000 for Florida and Texas (to the Colorado), and not until the last of March was the debate made public. On that day the halls and doorways of the House were crowded with persons eager to learn what the great secret had been, since it was well known that the injunction of secrecy would be taken off. When the doors were thrown open and announcement made that \$2,000,000 had been appropriated to buy the Floridas, it is said that an expression of disappointment and disgust passed over the faces of all present.* Congress having decided, as Mr. Tucker remarks, "to make an appropriation of \$2,000,000 for the purchase of Florida, the President determined upon a last effort to effect an amicable settlement at Paris of all matters of dispute with Spain. He appointed General Armstrong, of New York, and James Bowdoin, of Massachusetts, joint commissioners for that purpose,† and proposed to add Colonel Wilson C. Nicholas, of Virginia, as a third. But on that gentleman's declining the mission, the whole was left to the management of the two first." Seemingly nothing but the destruction of the Spanish navy at

Trafalgar, October 21, 1805, prevented a war between Spain and the United States. So pressing and menacing were the Spanish advances in the South that General Wilkinson was actually forced to meet hostilities; little was effected by negotiations and, in fact, nothing of moment was accomplished in this respect during Jefferson's administration. Regarding the appropriation of money to be used by the President at his discretion, it was charged that, as France wanted money and must have it, this sum went into Napoleon's coffers — that the United States vessel the *Hornet* had carried it to Paris for this very purpose.*

Nevertheless, from the time the news of the appropriation became public, the Federalists were sure that Jefferson was truckling to France. In this they were wrong, for it has been shown that neither Jefferson nor Madison was prompted by sympathy for France. Both submitted to the violence of all the belligerents alike and, in their eagerness to acquire Florida, had by turns flattered and threatened Spain, France and England, though not even for the sake of the Floridas would either have taken direct issue with France. Their unwillingness to offend Napoleon arose not from sympathy with him, but from the thought that he alone could give the Floridas to the United States without the enormous expense and

* Fuller, *The Purchase of Florida*, pp. 165-166; McMaster, vol. iii., p. 215. For a full account of the whole matter, see Garland, *Life of John Randolph*, vol. i., pp. 213-228; Tucker, *Life of Jefferson*, vol. ii., pp. 187-196; Adams, *John Randolph*, pp. 170-171.

† Schouler, *United States*, vol. ii., p. 113.

* Tucker (*Life of Jefferson*, vol. ii., p. 210) emphatically denies this.

terrible losses involved in a war.* Yet there was much to justify the belief that the Administration obeyed the beck and call of the French Emperor.

At the very time the Two Million Act was passed, another piece of legislation, prohibiting all trade with San Domingo, was carried through Congress. San Domingo was a rich dependency of France, with a population of 600,000 (400,000 were negroes in abject slavery, 40,000 property and slave-holding mulattoes who had no share in the government of the colony, and some Creoles enjoying such political rights as France was pleased to yield). A bitter class feud had long existed on the island, and when France decided to give the mulattoes an equal share in the government of the colony, civil war was precipitated. But the slaves had caught the revolutionary spirit, and on an August night in 1791 began a terrible massacre, in which many thousands perished and several other thousands fled to the United States. England and Spain attempted to restore order, but Toussaint, the leader of the negroes, drove out the Spaniards. As we have seen, Toussaint became absolute ruler. But after the treaties of 1800 and of Amiens, Toussaint was left to face France single-handed. In January of 1802, therefore, when a fleet with 10,000 troops arrived at the island, Toussaint succumbed to superior

fighting equipment, and treachery on the part of his own subordinates. He was captured and taken to France, where he died in prison.*

The treaty of Amiens did not remain long unbroken, for in 1803 France and England were again at war. An English fleet was sent to San Domingo, the negroes rose once more and declared themselves free, and the ports of the island were again thrown open to neutrals. The American merchants quickly took advantage of this privilege, and a lucrative trade sprang up. In January of 1804, although the negroes had proclaimed their independence and held undisputed control, Napoleon proclaimed San Domingo as his own. In November of 1804 Louis Marie Turreau arrived in the United States as minister of France, and one of his first acts was to protest against our trade with San Domingo. Madison promised that it should be stopped, and a bill was accordingly reported in Congress. But this prohibited only armed commerce and put the trade under heavy bonds for good behavior. The friends of commerce protested against the passage of the act, declaring that half the trade of the country would be stopped by it. They urged that, if such an act were passed, not a merchant could trade with New Orleans, Cuba, Jamaica, or the Leeward Islands, since the whole Spanish main swarmed with pirates lying in wait

* Adams, *United States*, vol. iii., p. 140.

* See Chap. II., *Ante*.

for American merchantmen. Already the Baltimore insurance companies had lost \$490,000, and not a day went by but new losses were reported. If such things came to pass when American merchantmen were armed, what would happen if such vessels were unarmed? The enemies of commerce were too strong, however, and the bill passed by a great majority. When it reached the Senate, an amendment was moved by Senator Logan, of Pennsylvania, which would prohibit all commerce with San Domingo. The Senate was so closely divided that it was necessary for Vice-President Burr to cast the deciding vote; and as he gave it against Logan's amendment, the bill passed March 3, 1805, leaving the unarmed trade still open.* The bill provided that no armed merchantmen should leave American ports for San Domingo, Cuba, or any West Indian Island—or for any port between Cayenne and the south boundary of Louisiana—without being placed under heavy bonds to bring back the arms to the United States or to use them only in self-defence.†

Turreau duly reported these matters to his government, but the merchants themselves gave needless notoriety to the occurrences. Another expedition was reported in preparation.

General Louis Ferrand issued severe proclamations against the trade;* which action caused Madison to remonstrate. A British cruiser now captured an armed American vessel which had carried three cargoes of powder to the Haytians, and sent the vessel to Halifax, where it was condemned by the British court as good prize for carrying on an unlawful trade. Early in August of 1805, shortly after his return from Italy, Napoleon received Turreau's dispatch announcing the passage of the act, and in a rage directed Talleyrand to notify the American minister that he would declare good prize everything that entered or left the ports of San Domingo. Accordingly, on August 16, 1805, Talleyrand informed Armstrong of the Emperor's decision.† Talleyrand directed Turreau to repeat the Emperor's remonstrances to Madison at Washington, and on January 3, 1806, Turreau obeyed, but, to his indignation, his letter was ignored.‡

Meanwhile, on December 18–20, 1805, Senator Logan had brought forward his bill prohibiting all trade with San Domingo.|| The Federalist Senators opposed the bill, in which they were joined by several Republi-

* *Annals of Congress*, 8th Congress, 2d session, pp. 1698–1699. For the debate see *Annals*, (Senate) pp. 27, 31, 34–35, 39, 44, 49–52, 62–63, 72; (House), 698, 722, 808, 811, 836–837, 858, 861, 1204–1205, 1217.

† McMaster, vol. iii., p. 218; Adams, *United States*, vol. iii., pp. 87–88.

* *American State Papers, Foreign Relations*, vol. ii., pp. 728–730, and vol. iii., p. 292.

† *Ibid.*, vol. ii., p. 727.

‡ *American State Papers, Foreign Relations*, vol. ii., p. 726.

|| *Annals of Congress*, 9th Congress, 1st session, pp. 21, 26–29; Benton, *Abridgment*, vol. iii., p. 349.

eans. The opposition argued that the government would lose several hundred thousand dollars of revenue; that the West Indies would be closed to American commerce; that the commerce with San Domingo would be thrown wholly into British hands; that the property and lives of American citizens in the island would be endangered; that the whole proceeding was instigated merely at the behest of Napoleon.* On December 27 the Senate requested the correspondence on the subject, which was transmitted by the President.† On February 20, 1806, after a long debate, the bill passed the Senate by a vote of 21 to 8.‡ It was then forced through the House almost without debate, and on February 28 received the President's

signature. This law interdicted for one year all trade with every port in the island over which the French flag did not fly and declared that any American vessel which during this period voluntarily proceeded to San Domingo should be wholly forfeited, ship and cargo.† These two acts — the Two Million Act and the act forbidding commerce with San Domingo — were measures equally necessary for the success of the Florida negotiations. Unless Jefferson consulted Napoleon at San Domingo, he could not expect Napoleon's aid at Paris. These measures, together with some appearance of military activity, completed the executive scheme of foreign policy regarding France and Spain.

CHAPTER IV.

1803-1806.

EVENTS IN THE NORTHWEST AND SOUTHWEST.

Admission of Ohio into the Union — Formation of State government — Erection of Michigan into a Territory — Destruction of Detroit by fire — Complications over land grants — Explorations of Lewis and Clark — Explorations of Pike in the Northwest and Southwest — Dispute between Georgia, South Carolina and the National Government over Yazoo land claims.

Meanwhile great events had taken place in the Territory Northwest of the Ohio. As before stated, Connecticut had relinquished her claim to

the Western Reserve, and as soon as land offices had been opened, hordes of settlers — chiefly Scotch, Irish, and Germans from Pennsylvania — poured

* *Annals*, pp. 31-35, 35-36, 38-41; Benton, *Abridgment*, vol. iii., pp. 350-351.

† *Annals*, pp. 42-43.

‡ *Annals*, pp. 52, 75, 79, 83, 86, 88-89, 113-117, 138. For the debate in the House see *ibid*, pp. 485, 497, 510, 515.

* *Annals*, pp. 1228-1229.

† Adams, *United States*, vol. iii., pp. 140-143; Chadwick, *Relations of the United States and Spain*, p. 98; McMaster, vol. iii., p. 218; Adams, *John Randolph*, pp. 187-189.

in. Steps had been taken also to erect Ohio into a State and to admit her into the Union. According to the provisions of the Ordinance of 1787, the Northwest Territory might be divided into not less than three and not more than five States, and the same act also drew the boundary for each of them. During the session of the third Territorial Legislature which met on November 23, 1801, a bill was introduced declaring the assent of the Territory to a change in the boundary drawn by the Ordinance and proposing also that two new lines of division be drawn: one setting apart the eastern State from the middle State by a line following the Scioto River to the Indian boundary, and thence to the southwest corner of the Connecticut Reserve; the other dividing the middle State from the western State by a line from the Falls of the Ohio to the Chicago River.†

This bill, planned by the Federalists to delay the formation of the State, was rushed through the Council and Assembly on the same day, but the minority protested, the act was denounced by the people, mass meetings of protest were held, and petitions were sent broadcast over the Territory for signatures.‡ Two delegates were sent to Washington to oppose the bill before Congress and they

found their work easy, for the Federalists had gone too far and the bill assenting to the boundary change was set aside January 27, 1802, by a vote of 81 to 5.* The various petitions and remonstrances, which in the meantime had been coming in, were then sent to a committee which was instructed to consider the advisability of granting statehood to the Territory. After holding another conference with the Secretary of the Treasury, the committee reported March 4, 1802, submitting a draft of a bill along the lines suggested by Gallatin, at the same time advocating the passage of an enabling act and advising that the boundary of the new State follow the lines laid down by the Ordinance of 1787.† The committee advised also that the citizens appoint delegates to a convention to frame a State constitution, if such a step were deemed proper.‡

This convention, if called, was to consider three important propositions. The Ordinance of 1787 provided that those States formed out of the lands comprising the Northwest Territory should not tax the lands therein belonging to the United States. By the act of May 10, 1800, the Secretary of the Treasury could sell lands on five years' credit, but the patents for these

* *Ibid.*, p. 286; *Annals of Congress*, 7th Congress, 1st session, vol. i., pp. 465-466.

† *American State Papers, Miscellaneous*, vol. i., p. 325.

‡ *Annals of Congress*, 7th Congress, 1st session, vol. i., pp. 1097-1103. See also McMaster, vol. iii., pp. 133-134.

* King, *Ohio*, p. 281.

† Hinsdale, *The Old Northwest*, pp. 307-308; McMaster, vol. iii., p. 133. See also Gannett, *Boundaries of the United States*, p. 110 *et seq.*

‡ King, *Ohio*, pp. 283-284.

lands were not to be granted until the final payment had been made. Gallatin held that the title to these lands remained with the United States until the patent was granted, and, therefore, that land sold on this credit plan should not be taxed for five years after purchase. He believed that this was sound business policy and should be extended. The government being exceedingly anxious to secure buyers for the public domain, he thought that some special inducements should be offered to those who would emigrate to the Northwest, purchase land, and settle there. Accordingly he suggested that the time of exception from taxation should be extended ten years, making fifteen years in all, and the committee, adopting his suggestion, so recommended to Congress. Gallatin knew that the State could not be forced to comply with this as a necessary requisite for admission to the Union, but thought that it would be a wise policy for the new State to adopt. In that case he promised them* that each township should have Section 16 for the use of schools, that the government would give certain salt springs, (known as the "Scioto Salt Springs") with the sections in which they were located, to the State for the use of the people, and that one-tenth of the net proceeds from sales of land in Ohio would be appropriated by the

government to road-making, some of the roads lying in the State and others joining her eastern boundary to the tide water of the Atlantic.*

Little objection was made to the last plan, but the first two were savagely attacked. It was contended that many of the present citizens of Ohio had bought their lands from the Ohio Company, the Connecticut Company, John Cleves Symmes, or at auction from the United States, or had settled on the Fire Lands or on one of the military reservations of the Territory, and that to tax these citizens, while immediate purchasers were to be exempt for fifteen years from June 30, 1802, was unjust. They would not agree to any exemption other than that allowed by the Ordinance of 1787 and the construction placed by the Secretary on the act of May 10, 1800. Those who favored the first two provisions asserted that, as the West needed settlers, the terms of these provisions should be made most liberal, as nothing would be more likely to draw settlers to the West than the fact that they could pay for their lands in four annual instalments and still have them free from taxation for several years. Again, the arrival of settlers would put money into the United States Treasury, which would enable the government to pay off the public debt. But these men protested against the last provision regarding

* Adams' ed. of *Gallatin's Writings*, vol. i., p. 76. See also the letters and other documents in *American State Papers, Miscellaneous*, vol. i., p. 340 *et seq.*

* See his letter in *Annals of Congress*, 7th Congress, 1st session, pp. 1100-1103. See also McMaster, vol. iii., pp. 134-135; King, *Ohio*, p. 287.

roadmaking, because they said the proceeds from the sale of public lands, according to law, could not be appropriated to any purpose save the payment of the debt.* The whole matter was then compromised, the term of exemption being placed at five years from the day when the first payment became due, while one-twentieth of the net proceeds was to be expended on the roads.† The bill was then passed and signed on April 30.‡

The struggle was then transferred to the Territorial Legislature. According to the above act, the settlers on the Virginia Military Reservation, the Connecticut Reserve, the United States Military Lands, and the lands lying beyond the Indian boundary were left without provision for educational purposes, and when the convention met for framing the Ohio constitution, this omission was considered so unjust that the delegates determined to impose some conditions of their own. They would assent to the five years' exemption clause if Congress would appropriate three per cent. of the proceeds from sales of public lands in Ohio to roadmaking *within the borders of the State*; if the government would vest the title of all school lands *in the State* and *not* in the people of the townships; if

Ohio were given a township for a seminary in place of the township promised Symmes, but never set apart; and if a tract of land equal to one-thirty-sixth of the lands comprising the Virginia Military Reservation, the Connecticut Reserve, the Military Lands, and the Indian lands, were granted to the State for educational purposes in these tracts.*

These conditions were incorporated in a bill, and, when presented, occasioned a lively debate, the chief ground of attack being the question as to whether the government had the right to offer funds already appropriated to a specific object for the benefit of a single section of the country. In a remarkable speech John Randolph silenced all opposition, and the bill passed the House. It was then passed by the Senate and sent to the President, who signed it on the last day of the session, March 3, 1803.†

Meanwhile, on April 30, 1802, Congress had passed an act authorizing a convention of delegates to be elected in September, 1802.‡ This convention was to meet at Chillicothe, November 1; if it determined that a State government should be established, a constitution was to be drafted and adopted either by this convention or

* McMaster, vol. iii., pp. 135-136.

† *Ibid.*, vol. iii., p. 136. See also *Annals of Congress*, 7th Congress, 2d session, pp. 1326-1334.

‡ *Annals of Congress*, 7th Congress, 1st session, pp. 294-295, 1349-1351. For text of enabling act see Thorpe, *Federal and State Constitutions*, vol. iv., pp. 2897-2899. See also *United States Statutes-at-Large*, vol. ii., p. 173.

* Speech of Griswold, *Annals of Congress*, 7th Congress, 1st session, pp. 1125-1126.

† McMaster, vol. iii., p. 135.

‡ *Annals of Congress*, 7th Congress, 1st session, pp. 299-300, 1098-1126, 1155-1162; Benton, *Abridgment*, vol. ii., pp. 567, 648-654. See also Hinsdale, *The Old Northwest*, pp. 308-309.

at another convention to be called for that purpose.* The enabling act allowed the new State to have one representative in Congress until the next census. When the convention assembled, 34 of the 35 members voted to proceed at once to form a constitution and a State government. This was done on November 29, 1802, and the Constitution was adopted by the unanimous vote of the convention.† The enabling act had provided that by the adoption of the Constitution the people of Ohio become a body politic; but, as there was as yet no government, Ohio was not yet a State and could not therefore be admitted into the Union. On January 11, 1803, an election of governor, members of the Legislature, and other officials was held; on February 19, Congress passed an act "providing for giving effect to the laws of the United States within the State of Ohio;"‡ and on March 1 the first General Assembly of the new State convened at Chillicothe.||

After the treaty for the purchase of Louisiana had been ratified, the people living in the vicinity of Detroit petitioned to be allowed to form a separate Territorial government. During the first session of the Eighth Congress the Senate passed a bill providing for a Territory in the Northwest, but when the bill was submitted to a committee of the House, an adverse report was rendered on the ground that if the bill were passed it would set a precedent for similar appeals from all parts of Louisiana and Mississippi. This report, however, was set aside by the House, and on a motion to pass the bill (February 21, 1804), it lacked only one vote (59 to 58).* At the second session the bill was again introduced, was passed January 7, 1805, and was signed by the President January 11, 1805, and the land was thus erected into the first grade Territory of Michigan.† Its boundaries were defined in the act as follows:

"All that part of the Indiana Territory which lies north of a line drawn east from the southerly bend, or extreme, of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the United States, shall, for the purpose of temporary government, constitute a separate Territory, and be called Michigan."‡

* *Annals of Congress*, 8th Congress, 1st session, pp. 16, 26, 30, 74, 75, 78, 212, 489, 623, 645, 699, 794, 1041, 1042.

† *United States Statutes-at-Large*, vol. ii., p. 309; Cooley, *Michigan*, p. 140; McMaster, vol. iii., p. 137; *Annals of Congress*, 8th Congress, 2d session (text) pp. 1659-1660, (debate) pp. 807, 862, 869, 871-872, 20-21, 23-26, 31-32.

‡ The Ohio Act of 1802, in defining the east

* King, *Ohio*, pp. 286-287.

† *Ibid.*, p. 290; Hinsdale, *The Old Northwest*, p. 312 *et seq.* For text see Thorpe, *Federal and State Constitutions*, vol. iv., pp. 2901-2913.

‡ *Annals of Congress*, 7th Congress, 2d session, pp. 20-21, 27-28, 32, 79, 290, 451, 465, 474, 509-510, 544, 584-587, 1559-1560.

|| King, *Ohio*, pp. 292-295. There has been considerable discussion over the exact date of the admission of Ohio. On the controversy, see J. Q. Howard in *Magazine of American History*, (February and May, 1887); I. W. Andrews in *Ibid* (October, 1887); Isaac Smucker, in *Magazine of Western History*, (February, 1885) p. 308; *Report of Ohio Secretary of State*, 1879, pp. 43-52; Albach, *Annals of the West*, p. 763; *Historical Magazine*, vol. xvi., p. 9; Hinsdale, *The Old Northwest*, pp. 314-315.

William Hull was appointed governor of the new Territory, and on July 1, 1805, came in sight of Detroit.* Instead of a grand pageant in honor of his arrival, he beheld a scene of utter desolation; for, save a few buildings, the city had been entirely destroyed by fire on June 11, and its inhabitants scattered to the four winds,† some of them going to the French settlements across the straits and some to the settlements on the Raisin and the Rouge, while others stayed in tents near the ruins of their former homes. It was planned to rebuild the city at once on a splendid scale, but a difficulty was encountered in the fact that outside the palisade of the old city the lands were included in the public domain of the United States, and no one in the Territory possessed authority to sell it. A meeting of the citizens was held at which a majority decided to take whatever lands were necessary

to lay out a great and beautiful city, trusting to Congress to legalize their action.*

When Hull became aware of the dilemma, he ordered the city to be laid out on the most approved plans and authorized the appropriation of the necessary lands from the public domain, though he was uncertain if Congress would sanction such action. The land was then cut up into lots and enough sold at an average of four cents per foot to satisfy the immediate wants of the people. If a person had owned a lot in the old city, he could exchange the old lot for a new one, foot for foot. By these methods those people who had been tenants in the old city were given an opportunity to become house or land owners in the new city. Hull reminded them that his action was illegal, that he had no right to take the public lands for the city—certainly none to sell them—and that it would be necessary for Congress to pass an act legalizing the transaction before title could be given to the purchasers. But the people took the risk, erected their new homes, and sent a petition to Jefferson requesting him to urge Congress to take the desired action. The governor and judges, too, sent long reports to the President,‡ which were laid before Congress, which soon passed an act for the relief of the

and west line in the northern bounds, was based on Mitchell's map of 1755, and thus the line was placed too far north. In the subsequent controversy with Michigan, Ohio insisted on the line from the south end of Lake Michigan to the most northerly cape of Miami Bay, which thus overlapped Michigan's claims under her bounds of 1805. The dispute remained unsettled until Michigan became a State in 1837 when she relinquished her Ohio claim and took in recompense the remaining part of the northern peninsula. See Duane, in *American Historical Record*, vol. i., p. 154; W. Buell, in *Magazine of Western History*, vol. iii., p. 457; Knapp, *The Maumee Valley*, chap. iv.; Cooley, *Michigan*, p. 214.

* Cooley, *Michigan*, p. 148. See also McCarty, *Territorial Governors of the Old Northwest*, p. 120.

† Cooley, p. 152.

* McMaster, vol. iii., pp. 138-139.

‡ *American State Papers, Public Lands*, vol. i., pp. 247-249; *Annals of Congress*, 9th Congress, 2d session, pp. 1023-1030.

city.* To every person seventeen years of age or over who owed allegiance to no foreign power and who on the day of the fire owned or lived in a house in Detroit, was given a lot of 5,000 square feet, with the privilege of buying more if he chose. The proceeds from these sales were to be applied to building a court-house and a jail. For this purpose Congress (by the act of April 21, 1806) set aside 10,000 acres of land in addition to the area of the old city, and constituted the governor and judges a board to lay out the new city.†

Another complication arose over land titles. While the population of Michigan at this time was less than 4,000,‡ and while the greatest portion of this population lived at Detroit, still a large number of people occupied farms which they had laid out and developed and which were scattered all over the State, though principally along the east coast from the Ohio boundary to Lake Huron and along the Rouge and Raisin rivers. In the whole territory there were 442 farms,|| each 40 French acres deep and from two to five acres wide, with only eight having clear and regular titles.§ A few had received grants from the old French governors which

had been confirmed by the French king; some had received grants from the governors which had not been confirmed; some merely had permission from the French military commanders to take up their lands and were without grants of any kind; while still others had squatted on their lands without permission from France, England, or the United States.* This mattered little so long as the settlement was an outpost of civilization, but when the country was organized into a territory, a government established, courts opened, and law and order about to be enforced, such as had not received grants began to wonder what provision would be made for them, as they were occupying the public domain without authority and against the established law of the land. This threw the whole question of land distribution into an interminable tangle.† The government was urged to find some way out of the dilemma, without doing injustice to either party concerned. Hull wrote at length on the subject in his first report to the President, and a convention drafted an address to the President and urged the governor and one of the judges to make a special journey to Washington to effect a settlement. Nothing was done at this time and a second convention was held which drew up another address, send-

* Cooley, *Michigan*, p. 153. The report of the Senate Committee is in *American State Papers, Miscellaneous*, vol. i., pp. 461-463.

† *United States Statutes-at-Large*, vol. ii., p. 398. See also McMaster, vol. iii., pp. 139-140.

‡ Cooley, *Michigan*, p. 145.

|| *Ibid.* p. 145.

§ McMaster, vol. iii., pp. 140-141.

* See Woodward's reports in *American State Papers, Public Lands*, vol. i., pp. 264-284; also other reports in *ibid.* pp. 305-557.

† *American State Papers, Public Lands*, vol. i., pp. 248-249.

ing it this time directly to Congress. That body then passed a bill for the settlement of the claims, the bill being signed by Jefferson on March 3, 1807.

While these events were transpiring in the country north of the Ohio, the far west had received considerable attention from the government. None knew exactly and few even approximately the extent, the boundaries, the physical aspect, and the resources of Louisiana. It was important therefore that the government institute measures for ascertaining these particulars at as early a date as possible. For many years Jefferson had been interested in the exploration of the country west of the Mississippi, and in 1792 had proposed that the American Philosophical Society send out an exploring expedition thither. Under the auspices of this Society, André Michaux, the botanist, was sent out,* but he proceeded no further than Kentucky, as his mission was countermanded by the French minister in the United States. As explained elsewhere, he did not concentrate his energy on geographical and scientific matters, but ruined the whole enterprise by trying to promote the abortive schemes of the French to set up an empire within the United States, to involve the country in a war with Spain, and to attack the Spanish settlements.†

On January 18, 1803, Jefferson sent a confidential message to Congress* recommending that an appropriation be made to defray the cost of an expedition to the Pacific. He selected Meriwether Lewis to conduct the party which included three sergeants, 23 soldiers, three interpreters, and Clark's negro slave (York), all under command of Captain Meriwether Lewis,† and Captain William Clark, second in command. On June 20, 1803, Jefferson prepared a set of instructions for the expedition intended to cover every matter of importance demanding Lewis' attention, warning them to treat the Indians "in the most friendly and conciliatory manner."‡

Though nominally in command of the expedition, Lewis regarded Clark as his equal in every respect, and during the entire journey the two worked together, shoulder to shoulder, for their common object.¶ Lewis

* Richardson, *Messages and Papers*, vol. i., pp. 354-355; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 192-202.

† Roosevelt (*Winning of the West*, vol. iv., pp. 311-312) says that beside Lewis and Clark there were one interpreter, two French voyageurs, Clark's negro servant, nine Kentucky volunteers, and fourteen regular soldiers; and in addition seven soldiers and nine voyageurs who were going to the Mandan villages on the Missouri. Thwaites (*Rocky Mountain Exploration*, p. 111) gives the names of the members of the expedition. In a letter from Fort Mandan April 7, 1805, Lewis says the party numbered 33. (*American State Papers, Indian Affairs*, vol. i., pp. 706-707).

‡ See Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 194-199. See also Thwaites, *Rocky Mountain Exploration*, pp. 100-102.

¶ Thwaites, *Rocky Mountain Exploration*, 104-105.

* His instructions are in Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 158-161.

† Thwaites, *Brief History of Rocky Mountain Exploration*, pp. 73-80.

left Washington July 5, 1803, and was joined by Clark at the Ohio, but the expedition was delayed at Pittsburg until August 31. Another start was then made, the explorers this time making their way toward the Mississippi. It had been their intention to winter at La Charette, a French settlement on the Missouri, but the season was so far advanced that they decided to abandon this plan, pitching their winter camp, instead, at River Dubois, on the Mississippi, nearly opposite the mouth of the Missouri.* On May 14, 1804, the party began the long journey up the Missouri. Toward the end of October they arrived in the Mandan Country, 1,600 miles distant, reaching a spot near the present city of Bismark, N. D., where they put up for the winter.† On April 7, 1805, the journey was resumed, and on the 26th the party reached the mouth of the Yellowstone, upon which they immediately launched their canoes. Passing and naming Maria's River on June 3, they pushed forward until on the 30th they came to Great Falls. Nearly four weeks had passed before they had made the portage and not until July 25 did they come to the triple fork of the Missouri, the three branches being named the Jefferson, the Madison, and the Gallatin. They then pro-

ceeded up the Jefferson River, and on August 12 reached the head of navigation, crossed the Nez Percé trail, marched along the Bitter Root Mountains, and finally came to the headwaters of the Clearwater branch of the Columbia River. On October 7 they began the descent of this river and on November 15 reached the Pacific Ocean.* On the shores of Young's Bay the explorers built a camp, which they named Fort Clatsop, and there the winter was passed, the party enduring great hardship and suffering.† On March 23, 1806, the return journey was begun, and on May 8 the headwaters of the Clearwater were reached. There the party separated and explored a large part of the present State of Montana, joining forces again below the mouth of the Yellowstone. A rapid descent of the Missouri was then made and on September 23, 1806, the party reached St. Louis.‡

* For a brief sketch of their life on the plains and in the mountains, see Roosevelt, *Winning of the West*, vol. iv., pp. 317-325. See also *Original Journals of Lewis and Clark Expedition* (Thwaites' ed.), vol. iii., p. 210.

† Agnes C. Laut, *Pathfinders of the West*, pp. 327-328.

‡ The journals of this expedition were edited by Nicholas Biddle, but their final revision was confided to Paul Allen, and the work is often cited as Allen, *History of the Expedition of Lewis and Clark*. The original title is *History of the Expedition under the Command of Captains Lewis and Clark to the Sources of the Missouri, thence across the Rocky Mountains and down the River Columbia to the Pacific Ocean, 1804, 1805, 1806. Prepared for the Press by Paul Allen* (2 vols., 1814). An uncritical reprint of this edition with notes was published in 1893 by Elliott Coues, under the title *History*

* Thwaites, p. 107.

† Roosevelt (*Winning of the West*, vol. iv., pp. 312-316) gives a good resumé of their dealings with the Indians. See also Channing, *The Jeffersonian System*, pp. 88-91; Thwaites, *Rocky Mountain Exploration*, chap. viii.

In his message of December 2, 1806, to the second session of the Ninth Congress, Jefferson spoke of the success of the explorers and said that they deserved well of their country.* A bill was thereupon introduced and passed giving 1,600 acres each to Lewis and Clark and double pay and 320 acres to every member of the party who had marched with them to the Pacific. It was signed by the President, March 3, 1807.†

While Lewis and Clark were journeying across the northern part of the country, Zebulon Montgomery Pike was exploring the sources of the Mississippi in Minnesota. In August of 1805 he left St. Louis, journeyed up the Mississippi, spent the winter among the Indians and the agents of the Northwest Fur Company in what is now Minnesota, explored the lakes that feed the river (deciding Lake

Le Sang Sue to be its main source), and late in April of 1806 returned to St. Louis.* Immediately upon his return, he was commissioned by General Wilkinson to lead a party through the centre of the Louisiana Purchase. He was to escort a party of Indian chiefs to the Osage River, visit the tribes on the Arkansas and Red rivers and, if possible, persuade the Comanches to attend a conference at St. Louis.† Setting out on July 15, 1806, he went up the Missouri and the Osage to the villages of the Indian chiefs he was escorting, then overland southward to the source of the Osage, thence northward across the present State of Oklahoma, crossed the Verdigris and Kansas rivers, traversed the State of Kansas, and finally reached the Republican River in Nebraska. Turning southward, he struck the Arkansas near the 99th meridian, ascended this river until he came to Denver, and explored and measured the peak which bears his name.‡ Crossing the mountains, he came to the Platte and then to the Big Horn, and, after exploring the sources of the Arkansas, began the search for the Red River. The party was then overtaken by

of the Expedition under the Command of Lewis and Clark (4 vols.). Reuben C. Thwaites has published a complete edition of all the journals under the title *Original Journals of the Lewis and Clark Expedition, 1804-1806* (1904). See also the bibliography in Winsor, *Narrative and Critical History*, vol. vii., pp. 556-558; W. R. Lighton, *Lewis and Clark*, in *Riverside Biography* series (1901); R. G. Thwaites, *Rocky Mountain Exploration*, chap. x.; O. W. Wheeler, *Trail of Lewis and Clark* (1904); E. E. Dye, *Conquest, The True Story of Lewis and Clark* (1902); Charles Morris, *Lewis and Clark and their Journey to the Pacific*, in *Discoverers and Explorers of America*, pp. 296-307; Agnes C. Laut, *Pathfinders of the West*, chap. xi.; Elson, *Side Lights on American History*, pp. 96-115.

* Richardson, *Messages and Papers*, vol. i., p. 408.

† *Annals of Congress*, 9th Congress, 2d session, p. 1278; McMaster, vol. iii., p. 142; *American State Papers, Military Affairs*, vol. ii., pp. 207-209.

* Roosevelt, *Winning of the West*, vol. iv., pp. 328-331; Coues, *Expeditions of Zebulon Montgomery Pike*, vol. i.; Thwaites, *Rocky Mountain Exploration*, pp. 197-198.

† Pike's instructions are in *American State Papers, Miscellaneous*, vol. i., pp. 564-565, 942-944.

‡ Thwaites, *Rocky Mountain Exploration*, pp. 198-204. For a description of the country through which they passed, see Roosevelt, *Winning of the West*, vol. iv., pp. 331-336.

winter, but being determined to find the river, Pike turned southwest. Half clad, frozen and starved, the men pushed on, at times forced to wade through snow waist deep; and, as there were no buffaloes on the plains to furnish meat, the men were often compelled to go forty-eight hours without food.* The feet of the two men were so badly frozen that the bones came through the flesh. Leaving them in a rude hut,† Pike continued southward, until, on January 30, 1807, he reached what he believed the Red River, but which, in reality, was the Rio Grande.‡ On one of its branches Pike erected a post and then sent back for his disabled companions and the baggage which he had been forced to discard. The little party was soon discovered and captured by the Spaniards. As Pike found that he was on Spanish soil, he submitted and was taken to Santa Fé, but was then sent to the commandant at Chihuahua, by whom he was released. Desirous of returning, Pike then went south into Mexico, which he traversed, then turned north, and, crossing the Rio Grande, entered Texas, arriving at the American fort at Natchitoches July 1, 1807. He was warmly thanked for his work by his superiors and rapidly promoted.||

While these events were occurring in the West and Northwest, there was considerable excitement in the Southwest regarding the Yazoo land claim. Roughly stated in terms that would bear qualification, the main elements of the story are as follows. The western boundary of Georgia had long been a subject of dispute among Georgia, South Carolina and the National government. The original Georgia charter of 1732 carved out a portion of South Carolina and formed in into Georgia, which for a number of years was governed by the Georgia trustees. Under the terms of this grant, Georgia extended westwardly, directly south of the southern boundary of the main portion of South Carolina. South of Georgia lay another portion of South Carolina, which, not being inhabited by whites, served as neutral ground between the British and Spanish colonies. Under the treaty of 1763 Great Britain came into possession of all of North America east of the Mississippi and east of the island of Orleans. In dividing this territory for administrative purposes the king limited East Florida on the north by St. Mary's River and to Georgia added the territory between the St. Mary's and the original

* Roosevelt, p. 337.

† *Ibid.*, p. 338.

‡ Thwaites, *Rocky Mountain Exploration*, pp. 205-206.

|| McMaster, vol. iii., pp. 144-145; Charles Morris, *Zebulon M. Pike, the Discoverer of Pike's Peak*, in *Discoverers and Explorers of America*, Vol. V — 6

pp. 308-314. Pike's journal was originally published under the title *Account of Expeditions to the Sources of the Mississippi and through the Western Parts of Louisiana, * * * during the Years 1805, 1806, 1807. And a Tour through the Interior Parts of New Spain in 1807* (2 vols., 1810). The standard reprint is that by Elliott Coues (3 vols., 1895).

southern boundary of Georgia, or, in other words, another slice of South Carolina was given to Georgia. At the same time the king reserved for the Indians the territory west and northwest of the heads of rivers emptying into the Atlantic Ocean. As the king was absolute ruler of the colonies at this time, his right to dispose of the land as he saw fit would seem indisputable; but at the time of the Revolution both Georgia and South Carolina laid claim to the territory south of Georgia's charter boundary and between the Mississippi and the "proclamation line." When peace was concluded the United States also claimed a large part of this land on the ground that it, or a large part of it, had been governed by the British as a part of West Florida.* Meanwhile, in 1785, the Georgia Legislature formed the strip immediately east of the Mississippi into Bourbon County. In 1788, after years of wrangling, Georgia surrendered to the United States government the right and title to the territory afterward to become the States of Alabama and Mississippi. Shut off from the Gulf of Mexico by the Spaniards, who owned every river mouth, this immense region was inhabited by powerful Indian tribes, chiefly the Creeks, Cherokees, Choctaws and Chickasaws.

* For the early history of the boundary dispute see Greene, *Provincial America*, chap. xv.; Howard, *Preliminaries of the Revolution*, chap. xii.; McLaughlin, *The Confederation and the Constitution*, chap. vi.; all in *American Nation* series, vols. vi., viii., x.

The cession of this land to the Government was not accepted, and in 1789 some citizens of Virginia and the Carolinas applied for leave to buy land between the Tombigbee and the Mississippi; and three great tracts of land were sold to three companies, named the Virginia Yazoo, the South Carolina Yazoo, and the Tennessee Yazoo. These companies intended to pay Georgia for this land in bills of credit. Some of these, known as rattlesnake bills, had no value whatever, and it was not until the Legislature secured a promise from the companies that rattlesnake money would not be offered that the bill was passed. The law said nothing about the kind of money to be received, and, acting under the law, the two companies made part payment in Georgia bills. When the balance due was tendered in the same money, the State treasurer declined to receive it, and as the two years granted under the law for full payment had now elapsed, the governor refused to pass the grant. The Virginia Yazoo Company withdrew the money paid to the State treasurer, but the South Carolina Company brought suit against the State in the Supreme Court. The adoption of the eleventh amendment to the Constitution, however, (which was declared in force January 8, 1798) cut short this suit and the company was forced to seek redress elsewhere.*

* McMaster, vol. iii., pp. 126-127; Adams, *United States*, vol. i., pp. 302-303; Haskins, *The*

On December 29, 1794, the Georgia Legislature passed another act selling the same land (comprising in all about 20,000,000 acres) for \$500,000 to four land companies, the Georgia, the Georgia-Mississippi, the upper Mississippi, and the Tennessee. The governor vetoed the bill, but the Legislature struck out the objectionable features and on January 7, 1795, the bill was approved. Then the wickedness of the sale came out, for it appeared that, with one exception, every member of the Legislature had a pecuniary interest in the transaction. The people throughout the State, incensed against the Legislature, elected a new one, and bade it take up the matter at the next session. On February 13, 1796, therefore, in obedience to the mandate of the people, the Yazoo act was declared null and void; all records of grants and conveyances under it were ordered to be eradicated from the books, the people forbidding any others to be recorded, and publicly burning the act.*

The United States then took alarm. On February 17, 1795, President Washington laid the act before Congress and instructed the Attorney-General to examine the title of the

United States to the land claimed by these companies. On April 29, 1796, the Attorney-General sent to the Senate a huge batch of documents, which were referred to a committee. On March 2, 1797, that committee recommended negotiations. No doubt existed in the minds of the committee that the Georgia boundary was a line from the source of the St. Mary's River to the source of the Ocmulgee and Savannah, heading all the rivers which flowed into the Atlantic; but, since this line had never been traced, the committee recommended that a joint commission be appointed to determine it. In the meantime Congress was to ask that Georgia consent to set up a temporary government on the disputed territory similar to that northwest of the Ohio River. The Senate ordered the report printed and the following day adjourned. Early in the next session the matter was taken up and a bill was passed by the House and Senate providing for the appointment of a joint commission to settle the conflicting claims of Georgia and the United States and for the formation of a new Territory to be called Mississippi, which should have a government similar to that of the Northwest Territory, but prohibiting slavery (Act of April 7, 1798). By the act of May 2, 1800, Congress gave Mississippi Territory a legislative assembly, but Georgia objected to this on the ground that the land belonged to her. On February 28,

Yazoo Land Companies, in *Annual Report of the American Historical Association* for 1891; Bassett, *The Federalist System*, chap. v.; Chan-ning, *The Jeffersonian System*, pp. 127-129.

* E. J. Harden, *George M. Troup*, pp. 14-19, 48-84; Adams, *United States*, vol. i., pp. 303-304; McMaster, vol. iii., pp. 127-128; Schouler, *United States*, vol. ii., p. 83; *American State Papers, Public Lands*, vol. i., pp. 157-158.

1801, however, a committee of the House replied that, inasmuch as Georgia and the United States had named commissioners under the act of 1798, the whole matter might be left to them.*

The commissioners for the United States were Secretary of State Madison, Secretary of the Treasury Gallatin, and Attorney-General Levi Lincoln. The commissioners on the part of Georgia were Senator James Jackson, the Anti-Yazoo leader, his colleague Senator Baldwin, and Governor John Milledge. These men quickly reached an agreement and on April 24, 1802, the articles of agreement and cession were signed at Washington.† The western boundary was drawn up to please the State, all lands between this boundary line and the Mississippi being given to the United States. In return, the latter gave Georgia a strip just south of Tennessee, agreed to extinguish at her own expense as early as it could reasonably be done the Indian title to all lands within the limits of Georgia, to pay here the sum of \$1,250,000 from the proceeds of the public land sales, to admit the ceded territory as a State into the Union whenever the population numbered 60,000, and to confirm all grants recognized by Georgia as legal. Georgia, on her part, agreed to set aside 5,000,000

acres to satisfy claims which were not considered legal.*

The agreement encountered the most violent opposition both in the House and Senate. One clause provided that, unless Georgia should refuse to ratify within six months or that Congress should repeal the act of 1800 within the same period, the agreement was binding. As the session was nearing its end, a motion was made to repeal, but was lost. As Georgia shortly afterward approved, the agreement became law. Meanwhile the commissioners examined the claims of settlers, received offers of compromise, and in February of 1803, made their report.† They divided the claimants to the land in the territory into two classes, according as they were or were not recognized by Georgia.

The first class included such as secured their title from the British government of West Florida, from Spain, from Georgia, or from occupancy and settlement. The second embraced those who held British or Spanish titles which they could not perfect, squatters who had no evidence of any title, men who held grants but did not live in the territory when the Spanish treaty was made, and the Yazoo speculators. Georgia had made provision for the first class

* McMaster, vol. iii., pp. 128-130.

† *American State Papers, Public Lands*, vol. i., pp. 125-126.

* Channing, *The Jeffersonian System*, p. 130; McMaster, vol. iii., p. 131; Adams, *United States*, vol. i., pp. 305-306; Gordy, *Political History*, vol. i., pp. 490-491.

† *American State Papers, Public Lands*, vol. i., pp. 132-158.

in the agreement, and for the second class by the reservation of the 5,000,000 acres. Out of this reservation the commissioners suggested that the claims of those settlers who were not recognized by Georgia should be settled first, and that any land then remaining be distributed among the Yazoo buyers under the act of 1795. The sale under the law of 1789 was utterly ignored. This report was accepted and on March 3, 1803, an act was passed regulating the disposal of land in Mississippi, setting apart a tract to quiet claims derived from any act or pretended act of Georgia which Congress might see fit to recognize.*

Year after year the Virginia Yazoo Company, the South Carolina Yazoo Company, the New England-Mississippi Company and others appealed to Congress for relief under the act of March 3;† but year after year every effort was defeated by John Randolph. On December 30, 1803, Randolph introduced a resolution excluding claimants under the Georgia claims of 1795 from any share in the proposed settlement.‡ On February 20, 1804, he withdrew this resolution so as to introduce a series of declaratory resolutions which, after giving the history of the Georgia grants, affirmed that Georgia had the right to rescind them and forbade the appropriation of money to settle claims

arising from them.* On March 7, 1804, he made a long, earnest speech on the subject which finally defeated action on the bill. On the final vote of postponement (March 12, 1804) Randolph carried 15 of the Virginia members with him.†

Madison and Randolph had now come to the parting of the ways; and, as Madison favored the adoption of the Yazoo compromise, Randolph bent every effort to defeat it.‡ It could not be doubted that Justice Marshall and the Supreme Court would hold that Georgia was bound by its contract with the land companies. The executive branch of the government took the stand that the State was not bound in law, but that the United States should nevertheless make an equitable compromise with the claimants. On the other hand, Randolph was determined to force Congress to assert that a State had the right to repudiate its own acts when these acts were evidently against public interest or common morality, and that its decision in such a case should be final.¶ The debate was embittered by the peculiarities of Randolph's character, for in his eyes

* *Ibid.* pp. 1039-1040; Gordy, *Political History*, vol. i., p. 491; Channing, *The Jeffersonian System*, p. 131.

† *Annals of Congress*, 8th Congress, 1st session, pp. 1102, 1107, 1117; Adams, *United States*, vol. ii., pp. 210-211.

‡ In Randolph's opinion Madison "was a colorless semi-Federalist, an intriguer with Northern Democrats and Southern speculators, one who never set his face firmly against an intrigue or a job."—Adams, *Life of Randolph*, p. 161.

¶ Channing, *The Jeffersonian System*, p. 132.

* McMaster, vol. iii., pp. 131-132.

† These protests are in *American State Papers, Public Lands*, vol. i., *passim*.

‡ *Annals of Congress*, 8th Congress, 1st session, p. 794.

every man who opposed him was base. Unfortunately, also, at this time the New England-Mississippi Company employed the Postmaster-General, Gideon Granger, as its agent, whose open advocacy of the passage of the bill on the floor of the House thoroughly aroused Randolph's anger.* Toward the close of January, 1805, consideration of the Georgia claims was begun in the House, on which occasion Randolph gave full vent to his temper.† In spite of Randolph's objections, however, the House sustained the compromise by a majority of 63 to 58, and ordered the committee to report on a bill.‡ Yet Randolph succeeded in postponing action on the bill which was reported.¶ Again on March 29, 1806, during the first session of the Ninth Congress, the Senate sent down a bill to settle the Yazoo claims. That body passed the bill soon after the death of its most active opponent, Senator James Jackson, of Georgia, by a vote of 19 to 11. When it was brought up before the House, Randolph exultingly seized upon the bill and emitted another of his long tirades against it,§ and again succeeded in defeating the bill, the

motion to reject being passed by a vote of 62 to 54.*

Wearied with their long efforts, the claimants finally carried the case to the Supreme Court, the case being known as *Fletcher vs. Peck*. This was first argued in 1809 by Luther Martin, Robert G. Harper, and John Quincy Adams. It was again argued in 1810 by Martin, Harper, and Joseph Story. On March 16 of that year Chief Justice Marshall handed down an opinion favoring the claimants,† and considering whether a legislature could annul rights vested in an individual by a law which in its nature was a contract.‡

Marshall held that the State of Georgia could not pass a law rendering void the privileges of the contract, since there was a provision in the Constitution that no State could pass a law impairing the obligation of contracts. He said also that the general principles which are common to our free institutions tended similarly to restrain such action. He thought that the corruption existing among the Georgia legislators did not affect the title of an honest holder under the law and doubted whether it was within the powers or province of the judiciary to control the powers of a

* Gordy, *Political History*, vol. i., pp. 491-492; Schouler, *United States*, vol. ii., p. 84.

† *Annals of Congress*, 8th Congress, 2d session, p. 1025 *et seq.*

‡ *Annals*, p. 1173.

¶ Adams, *United States*, vol. ii., pp. 212-217; Channing, *The Jeffersonian System*, p. 134.

§ *Annals of Congress*, 9th Congress, 1st session, p. 909, 912.

* *Ibid.*, p. 920; Benton, *Abridgment*, vol. iii., p. 470; Adams, *United States*, vol. iii., pp. 176-177.

† Cranch, *Supreme Court Reports*, vol. vi., p. 87.

‡ Jefferson refers to this as one of Marshall's "twistifications." See Ford's ed. of Jefferson's *Writings*, vol. ix., p. 276.

corrupt legislature. He intimated that the people of Georgia should have exercised their prerogatives to prevent the election of legislators open to bribery, and that the people, having selected a legislature whose majority acted from impure motives, it was their bounden duty to carry out the act. Under this decision, therefore, the Georgia land act of 1795 was declared to be a contract, the rescinding act of 1796 a violation of the contract and therefore repugnant to the Constitution.* Nevertheless, four years more went by before the contest ended, and not until 1814

did the Yazoo bill become a law. Though Justice Marshall's decision had settled the law in favor of the claimants, the chief obstacle to the proposed agreement was not removed before John Randolph was defeated for reelection to Congress. Furthermore, the threatening attitude of New England made every palliative necessary. Hence the Senate passed the bill on February 28, 1814, by a vote of 24 to 8 and the House on March 26 by a vote of 84 to 76, the bill becoming law March 31. Thus \$8,000,000 in land scrip was voted to quiet the claimants.*

CHAPTER V.

1793-1805.

THE WAR WITH THE BARBARY POWERS.

Capture of Americans by Algerians — Negotiation of a treaty by Donaldson — Appropriations by Congress to appease the Dey — Barlow's treaty with Tripoli — Negotiation of a treaty with Tunis — Declaration of war by Tripoli — Commodore Dale's encounters with Tripolitan cruisers — Determination of Congress to subdue Tripolitans — Beginning of operations by Preble's fleet — Loss of the *Philadelphia* — Decatur's attempt to recapture her — Appropriation of money by Congress to push naval operations — Bombardments of Tripoli by Preble — Loss of the *Intrepid* — Arrival of Barron — Eaton's capture of Derne — Lear's treaty — Eaton's subsequent actions — Restoration of peace with Tunis.

During the administration of President Adams a bill was passed to dismantle the navy; the ships were to be stripped of naval stores and sold to the highest bidder and the President was authorized to act according to his best judgment in the matter. The ships retained were the *Constitution*,

the *United States*, and the *President*, 44's; the *Congress*, the *Constellation*, the *Chesapeake*, and the *Philadelphia*, 38's; the *New York*, 36; the *Essex*, 32; and the *General Greene*, the *Boston*, the *Adams*, and the *John Adams*, 28's. To these Jefferson added the *Enterprise*, 12. There were sold nine gal-

* Magruder, *Life of Marshall*, pp. 186-190; Adams, *United States*, vol. ix., pp. 189-190; McMaster, vol. iii., p. 132; Channing, *The Jeffersonian System*, pp. 137-139.

* Acts of 13th Congress, 2d session, chap. xxxix.; *United States Statutes-at-Large*, vol. iii., p. 116. See also Adams, *United States*, vol. vii., pp. 401-402; McMaster, vol. iii., pp. 132-133.

leys, and the *George Washington*, the *Connecticut*, the *Ganges*, the *Portsmouth*, and the *Merrimack*, 24's; the *Delaware*, the *Baltimore*, and the *Montezuma*, 20's; the *Maryland*, the *Richmond*, the *Norfolk*, the *Patapasco*, the *Trumbull*, the *Pinckney*, the *Warren*, and the *Herald*, 18's; the *Eagle*, the *Scammel*, and the *Augusta*, 14's; and the *Experiment*, 12.* But Jefferson soon found use for the navy, as the Barbary Powers began to make trouble, and in a few weeks the *President*, the *Essex*, the *Philadelphia*, and the *Enterprise*, under Commodore Richard Dale, were on their way to Tripoli.

Portugal and Algiers had been at war for many years. The Portuguese fleet had succeeded in confining the Algerine cruisers to the Mediterranean, and not only the Portuguese commerce, but also that of the United States had been protected in the Atlantic from piratical depredations. Unexpectedly, in September of 1793, a year's truce between Portugal and the Dey of Algiers was concluded, wherein was the amazing stipulation that the Portuguese government should not afford protection to any nation against Algerine cruisers. Thereupon the Dey's cruisers passed into the Atlantic and began to cap-

ture American merchantmen.* In this way many vessels fell into the hands of these lawless freebooters and hundreds of American seamen were condemned to slavery.†

On January 2, 1794, a resolution was passed by the House declaring "that a naval force adequate to the protection of the commerce of the United States against the Algerian cruisers ought to be provided." The force proposed was to consist of six frigates, four of 44 guns and two of 36.‡ This measure was founded on the communications of the President in which it was stated that it would be next to impossible to negotiate a peace with the Dey of Algiers; and on the information that during their first short cruise in the Atlantic these pirates had captured 11 American merchantmen and made more than 100 prisoners.¶ Nevertheless, the bill was violently opposed. It was even suggested that it would be cheaper to purchase the protection of foreign powers than to provide for the national defence by a small naval

* Lossing, *Field-Book of the War of 1812*, p. 89.

† *American State Papers, Foreign Relations*, vol. i., pp. 413-423. See also Gardner W. Allen, *Our Navy and the Barbary Corsairs*, p. 13 et seq.; J. Fenimore Cooper, *History of the Navy of the United States*, vol. i., p. 148; Maclay, *History of the Navy*, vol. i., p. 158.

‡ *American State Papers, Naval Affairs*, vol. i., p. 5 et seq. (full plans, sizes and dimensions are here given); Winsor, *Narrative and Critical History*, vol. vii., p. 360.

¶ Allen, *Our Navy and the Barbary Corsairs*, p. 16.

* Cooper, *Naval History*, vol. i., p. 193; McMaster, vol. ii., p. 588. Maclay (*History of the Navy*, vol. i., p. 215) says the *George Washington* was retained, and evidently so, for in 1800 Bainbridge sailed to the Mediterranean in the *George Washington*.

force.* The original resolution was carried by a majority of only two votes; but, as the debate progressed, several members changed their vote, and on the final question it was carried by a majority of 11 (50 to 39). The Senate then concurred, and the bill received the President's approval on March 27.†

In November of 1795, through the efforts of David Humphreys, Joel Barlow, and Joseph Donaldson, the negotiations with the Dey of Algiers were brought to a close. As a result of the negotiations, peace was established and ultimately about 120 prisoners, some of them imprisoned for more than ten years, were released. Congress had previously appropriated about \$1,000,000 to procure the release of the captives in Algiers. The money was to be borrowed in London through the Bank of the United States and was to come principally from the sale of public stock. Humphreys being empowered to conclude a treaty with the Dey of Algiers, he left the United States in

April of 1795. He was accompanied by Joseph Donaldson, consul for Tunis and Tripoli, who was to negotiate the treaty, while Humphreys went to France to seek the aid of the French government.‡ Donaldson proceeded to Algiers, where on September 5 a treaty with the Dey was concluded.† Donaldson agreed that the money for ransoming the captives should be paid in three or four months, presuming that it would then be ready in London. Barlow was employed by Humphreys to go from France to assist in the negotiations, but the treaty was concluded before his arrival in Algiers.

In his speech to the first session of the Fourth Congress (in December of 1795), Washington referred to this treaty "with peculiar satisfaction" as foretelling a speedy peace and the restoration of the captives.‡ Washington's elation was a little premature, however. Humphreys had been informed that \$800,000 had been placed to his credit by the Government for use in the negotiations, and he now ordered \$650,000 in Portuguese gold and Spanish dollars to be sent to Algiers at once. But so great a sum in coin was not to be had in London, and thus the Dey did not

* In his journal, Senator William Maclay thus expresses the attitude of the opposition: "It is the design of the Court Party [the Federalists] to have a fleet and an army. This is but the entering wedge of a new monarchy in America, after all the bloodshed and sufferings of a seven years' war to establish a republic. The Indian war is forced forward to justify our having a standing army, and eleven unfortunate men now in slavery in Algiers is the pretext for fitting out a fleet."—Maclay, *Journal of William Maclay*.

† Marshall, *Life of Washington*, vol. ii., pp. 314-318. See also Gibbs, *Administrations of Washington and Adams*, vol. i., pp. 122, 141, 349; Bolles, *Financial History*, pp. 193-194; Allen, *Our Navy and the Barbary Corsairs*, pp. 48-49.

* *American State Papers, Foreign Relations*, vol. i., pp. 528-529, 553.

‡ Schnyler, *American Diplomacy*, p. 213; Moore, *American Diplomacy*, pp. 67-68; Allen, *Our Navy and the Barbary Corsairs*, pp. 23, 53, 313-314; *American State Papers, Foreign Relations*, vol. i., pp. 530-532.

‡ Richardson, *Messages and Papers*, vol. i., pp. 182-183.

receive the stipulated sum when payment fell due.* The failure to pay this money at the appointed time greatly incensed the Dey, who threatened to annul the treaty. Finally, however, Barlow and Donaldson prevailed upon the Dey to extend the time of payment to April 8, 1796. This day, too, passed without payment and in order to appease the Dey, Donaldson promised him as fine a frigate as could be built in America.† These facts were presented to Congress in February of 1797, when \$255,759 additional was requested to carry out the terms of the treaty and \$96,246 for two years' annuities to the Dey.‡ Congress appropriated the money, and in 1798 the *Crescent*, loaded with presents and bearing 26 barrels of money, was sent to Algiers.||

On November 4, 1796, Barlow concluded a treaty with Tripoli similar to that made with Algiers. Indeed, the Dey of Algiers guaranteed the treaty and advanced the money to pay for it.§ By its tenth article the money

and presents given to the Dey were to constitute full payment, and neither party was ever to make any pretense for further money or any periodical tribute.*

In 1797, at a cost of \$107,000,† a treaty was concluded with the Bey of Tunis,‡ but the United States objected to some of its articles and the Senate explicitly refused to ratify the fourteenth. This provided that Americans sending goods to Tunis in American vessels should pay a duty of 3 per cent., while foreigners sending goods in American bottoms should pay 10 per cent.; and that, on the other hand, the people of Tunis could send goods to America in ships of any nationality and pay only 3 per cent. Another article provided that every time a gun was fired in saluting an American ship a barrel of gunpowder should be given to the Tunisian government. Still another provided that the Tunisian government might compel an American captain to place his vessel at their service whenever the government so desired.|| Therefore, when William Eaton and James L. Cathcart were sent out as consuls to Tunis and Tripoli, respectively, the

* McMaster, vol. ii., p. 689; Allen, *Our Navy and the Barbary Corsairs*, pp. 53-54.

† Allen, *Our Navy and the Barbary Corsairs*, p. 54 *et seq.*

‡ Pickering to the President, January 6, 1797, *American State Papers, Foreign Relations*, vol. i., pp. 553, 554; *Annals of Congress*, 4th Congress, 2d session, pp. 2235-2245.

|| McMaster, vol. ii., pp. 589-590; Parton, *Life of Jefferson*, p. 636 *et seq.*

§ Allen, *Our Navy and the Barbary Corsairs*, pp. 55-56, 59, 60, 315. For text see *American State Papers, Foreign Relations*, vol. ii., pp. 18-19; *Annals of Congress*, 5th Congress, App., vol. iii., pp. 3094-3096.

* Schuyler, *American Diplomacy*, p. 215.

† Schuyler, *American Diplomacy*, pp. 217-218.

‡ For text see *American State Papers, Foreign Relations*, vol. ii., pp. 123-125; *Annals of Congress*, 5th Congress, App., vol. iii., pp. 3287-3294.

|| Schuyler, *American Diplomacy*, p. 216; Prentiss, *Life of Eaton*, pp. 55-56; Allen, *Our Navy and the Barbary Corsairs*, pp. 61-62; C. C. Felton, *Life of William Eaton*, in Sparks, *American Biography*, vol. ix., pp. 185-190.

former was instructed to procure a revision of the articles to which objection had been made.* Finally, on March 26, 1799, the treaty was arranged nearly on our own terms, and on January 10, 1800, was ratified by the Senate.†

Meanwhile trouble had broken out also with the Pacha of Tripoli, Yussuf Caramalli (or Jussuf Caramally or Karamanli) ‡ who, having deposed his brother, Hamet, held sway in that dependency of the Porte. In 1800 Caramalli learned that gifts had been made by the United States to Algiers and Tunis and resolved to have his full share of the spoils of the rising nation. Accordingly, Caramalli charged the American government with unfairness in bestowing upon him only paltry tributes, while Tunis had received handsome presents and Algiers had been given a frigate; and threatened reprisals on American commerce.¶ The consul sought to appease him, but the Pacha would not be satisfied by flattering words, demanding that something more substantial be produced within

six months.* When the appointed day arrived and no money had been received, the flagstaff of the American consulate was cut down (May 14, 1801), which in Tripoli constituted a declaration of war, and on the 24th Eaton left Tripoli for Leghorn.†

Prior to the reception of this news in the United States, however, Commodore Dale, with his squadron of four vessels,‡ had set sail.¶ He was to touch first at Gibraltar, which was to be his base of supplies, and, if the Barbary Powers were at peace, to make a tour of the Mediterranean, stopping at Tunis, Tripoli, and Algiers, and then (not later than December) starting for home. If the Barbary Powers were at war, he was to act on the defensive. Should he take a Barbary corsair, he was to dismantle the ship, throw her guns and powder into the sea, and let her go with just enough sail to reach home.§

* Moore, *American Diplomacy*, pp. 68-69; *American State Papers, Foreign Relations*, vol. ii., p. 352; Prentiss, *Life of Eaton*, pp. 191-204; *Annals of Congress*, 7th Congress, 2d session, p. 714.

† McMaster, vol. ii., pp. 591-592; Allen, *Our Navy and the Barbary Corsairs*, pp. 90-91.

‡ The *President*, 44, flagship, Captain James Barron; the *Philadelphia*, 36, Captain Samuel Barron; the *Essex*, 32, Captain William Bainbridge; and the schooner *Enterprise*, 12, Lieutenant Andrew Sterrett. The first lieutenant of the *Essex* was Stephen Decatur and on the *Enterprise* David Porter held the same office. (Brady, *Life of Decatur*, p. 13 *et seq.*)

¶ For his instructions May 20, 1801, see *American State Papers, Foreign Relations*, vol. ii., pp. 359-360. See also *Annals of Congress*, 7th Congress, 2d session, p. 701 *et seq.*

§ See the minutes of the Cabinet meeting on this subject, in Ford's ed. of *Jefferson's Writings*,

* For their instructions see *American State Papers, Foreign Relations*, vol. ii., pp. 281-282.

† Prentiss, *Life of Eaton*, pp. 60-80; Allen, *Our Navy and the Barbary Corsairs*, pp. 63-66, 315-317.

‡ In his account of the situation in Tripoli, sent August 25, 1802, to Secretary Madison, Cathcart gives the name as Jouseph Pacha Caramanli. (*American State Papers, Foreign Relations*, vol. ii., p. 700).

¶ *American State Papers, Foreign Relations*, vol. ii., pp. 350-352, 355. See also Cooper, *Naval History*, vol. i., pp. 198-199; Maclay, *History of the Navy*, vol. i., p. 216.

About July 1, 1801, Dale arrived at Gibraltar and found the Tripolitan admiral (a renegade Scotchman named Lisle) lying in the harbor with a frigate of 26 and a brig of 16 guns. Though the admiral gave assurances of peaceful intentions, Dale thought it best to leave one of the ships to watch them.* Another vessel he sent along the northern shore to collect and give convoy to American shipping, and with the other two set sail for Tunis and Algiers.

Soon afterward the *Enterprise*, 12, under command of Lieutenant Sterrett, while making for Malta, fell in with a Tripolitan polacre, the *Tripoli*, of 14 guns and 80 men. In a running fight of three hours, which was twice renewed by the pirates after they had struck, Sterrett completely disabled the Tripolitan vessel, killing 20 and wounding 30 of her crew, without losing a single man on the *Enterprise*.† In strict accordance with orders, Sterrett proceeded to dismantle her.‡ On August 30 Commodore Dale captured

a Greek ship and took an officer, 20 soldiers, 14 merchants, 5 women and a child—all subjects of the Pacha. These he offered in exchange for any Americans the Pacha might have, but the latter sent word that he would not give up a single American for all the soldiers. As for the merchants, he cared little for any of them.* However, he finally did agree to give three Americans for all the soldiers, provided he succeeded in capturing any Americans. The Pacha wished to make a truce, but Dale declined and on September 3, after landing his captives, set sail for Gibraltar.† Toward the end of October of 1801, in accordance with his instructions, Dale sent the *Enterprise* home, and in the following March, himself returned in the *President* (arriving at Norfolk, April 14, 1802), leaving the *Philadelphia* and *Essex* to look after American interests in that quarter. The *Essex* was left to blockade the two Tripolitan cruisers at Gibraltar, while the *Philadelphia* was put up for the winter at Syracuse, with orders to show herself occasionally at Tunis and Tripoli.‡

On February 6, 1802, an act was passed for the protection of the com-

vol. i., p. 293. See also McMaster, vol. ii., p. 592; Allen, *Our Navy and the Barbary Corsairs*, pp. 92-94.

* Maclay, *History of the Navy*, vol. i., pp. 228-229.

† See Sterrett's report August 6, 1801, to Commodore Dale, *American State Papers, Foreign Relations*, vol. ii., p. 360. Lossing (*Field-Book of the War of 1812*, p. 118) gives the loss on the *Tripoli* as 20.

‡ *American State Papers, Naval Affairs*, vol. i., p. 82. See also Winsor, *Narrative and Critical History*, vol. vii., pp. 369-370; F. S. Hill, *The Lucky Little Enterprise and Her Successors*, p. 11; *ibid*, *Twenty-Six Historic Ships*, pp. 106-107; *ibid*, *Romance of the American Navy*, pp. 42-43.

* Dale's report, October 4, 1801, *Annals of Congress*, 7th Congress, 2d session, p. 739. See also McMaster, vol. ii., p. 602; Cooper, *Naval History*, vol. i., pp. 201-202.

† *Annals of Congress*, p. 740; Allen, *Our Navy and the Barbary Corsairs*, pp. 97-98.

‡ See the *Defence of the Conduct of Commodore Morris during his Command in the Mediterranean*, pp. 22, 25.

merce and seamen of the United States against the Barbary Powers, which, without specifically declaring war, fully authorized the capture and condemnation of any Tripolitan vessel that might be found.* Accordingly a relief squadron was dispatched to the Mediterranean under Commodore Richard V. Morris, the ships leaving on different dates.† During the latter part of 1802 and the first part of 1803 Morris maintained a blockade, convoyed American ships, kept the Barbary Powers in check, and gained several victories over flotillas of gunboats and pirate vessels. But the armament did not contain guns of sufficient calibre for the bombardment of Tripoli—the only argument the Pacha would heed. Therefore, in November of 1803, Morris was recalled and, having been pronounced wanting in diligence and energy, was dismissed from the service in May of 1804.‡

* For the debates see *Annals of Congress*, 7th Congress, 1st session, pp. 327-329; Benton, *Abridgment*, vol. ii., pp. 571-572; Winsor, *Narrative and Critical History*, vol. vii., p. 370.

† The ships sailed as follows: The *Enterprise*, 12, Lieutenant Sterrett, February 17; the *Constellation*, 36, Captain Alexander Murray, with Charles Stewart as first lieutenant, March 14; the *Chesapeake*, 36, flagship, Lieutenant Isaac Chauncey, acting captain, April 27; the *Adams*, 28, Captain Hugh G. Campbell, with Isaac Hull as first lieutenant and Oliver H. Perry as midshipman, June 10; the *New York*, 36, Captain James Barron, with Stephen Decatur as first lieutenant, September 1; and the *John Adams*, 28, Captain John Rodgers, September 19. Cooper (vol. i., p. 204) and Allen (pp. 103-104) give these statistics somewhat differently.

‡ Allen, *Our Navy and the Barbary Corsairs*, chaps. viii.-ix.; Cooper, *Naval History*, vol. i.,

The Administration now realized its serious mistake. If Tripoli was to be brought to terms, her port must be effectually blockaded and her castle bombarded. As the fleet already in the Mediterranean was unequal to such a task, a new squadron under Commodore Edward Preble was dispatched, vessel after vessel, as they were ready for use. This fleet consisted of the *Constitution*, 44 (Lieutenant Thomas Robinson, Jr.), the old *Philadelphia*, 36 (Captain William Bainbridge), the *Nautilus*, 12 (Lieutenant Richard Somers), and the *Vixen*, 12 (Lieutenant John Smith), two 16-gun brigs, the *Argus* (Lieutenant Stephen Decatur) and the *Siren* (Lieutenant Charles Stewart), and the gallant *Enterprise*, 12 (Lieutenant Isaac Hull). By November 1 all the ships had reached Gibraltar. The *Philadelphia* was among the first to arrive. Without awaiting the arrival of the rest, she started for Tripoli, and on the way (August 26, 1803) overhauled a 22-gun Moorish corsair, the *Meshboka*,*

pp. 204-217; *Defence of the Conduct of Commodore Morris during his Command in the Mediterranean*; David D. Porter, *Memoirs of Commodore David Porter*, chap. iv.; A. S. Mackenzie, *Life of Commodore Oliver Hazard Perry*, vol. i., pp. 53-59.

* Some give this name as *Mirboka*, but Bainbridge himself in his report of August 29 gives it as above. See also *Annals of Congress*, 8th Congress, 2d session, pp. 1255-1257; Cooper, *Naval History*, vol. i., p. 219; Maclay, *History of the Navy*, vol. i., p. 242. In his message to the Senate March 15, 1804, Jefferson (*Annals of Congress*, 8th Congress, 1st session, p. 276) gives the name as *Mirboka*.

with a Boston brig, the *Celia*, in her company, and captured them both. At first the captain of the corsair stated that he had made the capture on his own responsibility, but when threatened with execution as a pirate, he produced an order from the governor of Tangiers to seize American ships wherever they might be found.* Bainbridge then returned to Gibraltar with his prizes, left them there, and reported the affair to Preble. The latter took prompt action, on October 6 sending the *Constitution*, *New York*, *John Adams* and *Nautilus* to Tangiers. The Emperor of Morocco promptly disavowed the act of the governor, removed him from office, confiscated his estates, saluted the American squadron, disgraced the captain of the *Meshoba* and released an American ship that had been detained at Mogador.† After this affair Bainbridge was detailed in the *Philadelphia* to assist the *Vixen*, 12, Lieutenant John Smith, in blockading the harbor of Tripoli. While cruising at his station, October 31, Bainbridge gave chase to a large xebec which was heading for Tripoli. As the *Philadelphia* sped along, the water suddenly shoaled, and a moment later the frig-

ate struck a hidden reef, shot up on it, and stood fast. Everything was done to release the ill-fated ship, but she would not budge, whereupon the magazine was drowned, the ship scuttled, and the flag hauled down. The Tripolitans then came over the side, captured Bainbridge and the crew of about 315 men, plundered the vessel, and late at night carried the prisoners before the Pacha. Subsequently the *Philadelphia* was moved off the rocks and added to the Tripolitan navy.*

Preble then determined that the *Philadelphia* should not remain in the enemy's hands. The idea of saving or destroying her had been in the minds of the officers and men for some time,† and Stephen Decatur offered to conduct a party to board and cut out or destroy the ship as she lay in the harbor. Decatur made his first attempt to enter the harbor on February 9, 1804, in the ketch *Intrepid*, but was compelled to put back by a severe gale.‡ On the 16th, however, another

* Bainbridge's report is in *American State Papers, Naval*, vol. i., p. 123; *Annals of Congress*, 8th Congress, 2d session, pp. 1632-1634. See also Adams, *United States*, vol. ii., pp. 138-139; Cooper, *Naval History*, vol. i., pp. 221-225; McMaster, vol. iii., pp. 202-203. Allen (*Our Navy and the Barbary Corsairs*, pp. 145-157) gives an excellent description of the loss of the ship and the treatment of the prisoners.

† Maclay gives to Bainbridge the credit of first suggesting the destruction of the *Philadelphia* at her anchorage. See Maclay, *History of the Navy*, vol. i., p. 253.

‡ Autobiography of Commodore Charles Morris, in *Proceedings of the United States Naval Institute*, vol. vi., no. xii., p. 134 (1880); Maclay, vol. i., pp. 256-258; Brady, *Life of Decatur*, pp. 28-29.

* Harris, *Life of Bainbridge*, chaps. iii.-v.; Porter, *Memoir of David Porter*, chap. v.; Allen, *Our Navy and the Barbary Corsairs*, pp. 140-142; Cooper, *Lives of American Naval Officers*, vol. i., pp. 38-51; Ray, *Horrors of Slavery: or, The American Tars in Tripoli*, chaps. vii.-xi.; Cowdery, *American Captives in Tripoli: or Dr. Cowdery's Journal*; *American State Papers, Foreign Relations*, vol. ii., pp. 591-592.

† Maclay, *History of the Navy*, vol. i., p. 244.

attempt was made, and this time successfully. Ranging alongside the *Philadelphia*, a sudden gust of wind compelled the *Intrepid* to sheer away from the frigate;* but Decatur launched a small boat, warped the *Intrepid* under the warship's broadside, and when the ships came together he and his men sprang aboard.† Instantly all was uproar on the frigate. Without awaiting attack, the Tripolitans leaped overboard into the harbor, where many were drowned or killed by the boat's crew.‡ The combustibles with which the *Intrepid* was laden were then passed over the side, the *Philadelphia* was set on fire, and, unscathed, the brave band of assailants abandoned the burning ship.¶

At home the cheering influence of this victory was badly needed. The Administration seemed to have become sensible of the importance of increasing the force in the Mediterra-

nean, and it was accordingly determined to send out reinforcements. Toward the end of the first session of the Eighth Congress (March 20, 1804), news of the wreck of the *Philadelphia* was sent to Congress by President Jefferson in a special message, in which he recommended an increase in our force in the Mediterranean.* When the matter was taken under consideration in Congress, it was ascertained from the Secretary of the Treasury that only \$150,000 could be spared from the funds on hand, whereas \$750,000 was needed. Thereupon a bill was passed providing that after June 30, 1804, an extra duty of 21½ per cent. be laid on all goods imported into the United States paying an *ad valorem* duty, and 12½ per cent. additional if these goods came in foreign vessels, the money so collected being called the Mediterranean Fund.† This additional duty was to continue until three months after peace should be declared. The President was authorized to build two 16-gun ships and borrow or hire as many gunboats as he thought necessary for service in the Mediterranean.‡ Thereupon Jefferson ordered

* *Autobiography of Commodore Charles Morris*, pp. 136-137.

† Lossing, *Field-Book of the War of 1812*, pp. 120-121; Brady, *Life of Decatur*, pp. 34-36.

‡ Brady, *Life of Decatur*, pp. 37-38.

¶ Allen, *Our Navy and the Barbary Corsairs*, pp. 164-172; Cooper, *Naval History*, vol. i., pp. 226-232; Maclay, *History of the Navy*, vol. i., pp. 260-269, vol. ii., chap. ii.; McKenzie, *Life of Stephen Decatur*, p. 79, App. iv. See also Adams, *United States*, vol. ii., p. 139; Winsor, *Narrative and Critical History*, vol. vii., pp. 372-373; *Documents Relative to the Claims of Mrs. Decatur*, pp. 27-31 (Georgetown, 1826); *American State Papers, Naval Affairs*, vol. i., pp. 122-128, vol. iii., 180-188 (official reports, etc.); *Autobiography of Commodore Charles Morris*, pp. 25-31; Brady, *Life of Decatur*, pp. 39-42; MacDonough, *Life of MacDonough*, pp. 68-70; S. P. Waldo, *Life of Decatur*, chaps. vii.-viii.

* Richardson, *Messages and Papers*, vol. i., p. 368; *Annals of Congress*, 8th Congress, 1st session, pp. 1201-1202.

† Act of March 26, 1804; Schouler, *United States*, vol. ii., p. 77. See also Stanwood, *Tariff Controversies*, p. 112.

‡ For the debates and act see *Annals of Congress*, 8th Congress, 1st session, pp. 1210-1225, 1301-1303, 1310-1312; Benton, *Abridgment of Debates*, vol. iii., pp. 158-161.

into commission four more frigates* and placed Commodore James Barron in command, sending the former consul, William Eaton, with Barron as navy agent.†

During the summer of 1804 Preble began a series of dashing assaults against Tripoli. He collected his ships, borrowed six small gunboats, and two bomb-vessels, and some gunners and sailors from the king of Naples,‡ then at war with Tripoli, and five times bombarded Tripoli.¶ On August 3, in command of a force of 134 guns and 1060 officers and men, Preble carried the *Constitution* into the harbor and for two hours engaged the Tripolitan batteries at very short range. Fortunately for Preble, the Mussulmen could not aim their guns well, and his fleet thus escaped injury. After throwing many broadsides into the batteries and town, he retired without losing a man. The gunboat flotilla was equally daring, though not quite so lucky. One division was commanded by Lieutenant

Richard Somers, and the other by Stephen Decatur. They attacked the Tripolitan gunboats and captured three, beside sinking several, but the action cost the life of James Decatur who was killed by a musket-ball in the head.* It was during this attack that Stephen Decatur became engaged in a hand to hand conflict with a Tripolitan officer. Undoubtedly he would have been slain had it not been for the devotion of a young man named Reuben James† who saved Decatur from the fatal blow by interposing his own head at the critical moment. For generations pictures of Decatur struggling with the Turk adorned the windows of print shops.‡

On August 7 the fleet again advanced to the attack, about 500 24-pound shot and 48 shells being thrown

* The *President*, 44, the *Congress* and *Constellation* 38's, and the *Essex*, 32. (Cooper, *Naval History*, vol. i., p. 236.)

† McMaster, vol. iii., pp. 203-204; Allen, *Our Navy and the Barbary Corsairs*, pp. 198-199, 218.

‡ Preble to Secretary of Navy, September 18, 1804, *Annals of Congress*, 8th Congress, 2d session, p. 1638; Allen, *Our Navy and the Barbary Corsairs*, p. 181.

¶ The fleet then consisted of the *Constitution*, 44, Captain Preble; the *Siren*, 16, Charles Stewart; the *Argus*, 16, Isaac Hull; the *Nautilus*, 12, Richard Somers; the *Vicen*, 12, John Smith; the *Scourge*, 14, John H. Dent; the *Enterprise*, 12, James Decatur; and the borrowed vessels. (Maclay, *History of the Navy*, vol. i., pp. 271-272.)

* Preble's report, in *Annals of Congress*, 8th Congress, 2d session, pp. 1640-1641; Winsor, *Narrative and Critical History*, vol. vii., p. 373; Brady, *Life of Decatur*, pp. 46-52; Cooper, *Naval History*, vol. i., pp. 242-243; Maclay, *History of the Navy*, vol. i., pp. 273-274, 276-277; Hill, *The Lucky Little Enterprise and Her Successors*, pp. 14-17; *ibid*, *Twenty-Six Historic Ships*, pp. 138-145; Hollis, *The Frigate Constitution*, chaps. v.-vi.

† Lossing, *Field-Book of the War of 1812*, p. 122. Others say Daniel Frazier (Allen, *Our Navy and the Barbary Corsairs*, pp. 191, 192 note).

‡ McKenzie, *Life of Decatur*, pp. 89-93; Brady, *Life of Decatur*, pp. 53-55; Cooper, *Naval History*, vol. i., pp. 240-242; Maclay, *History of the Navy*, vol. i., pp. 274-275; Allen, pp. 185-195; Preble's report in *American State Papers*, *Naval Affairs*, vol. i., p. 133; Sabine, *Life of Preble*, chap. v.; Hill, *Twenty-Six Historic Ships*, pp. 113-115; *Ibid*, *Romance of the American Navy*, pp. 46-50; MacDonough, *Life of MacDonough*, pp. 75-76; Waldo, *Life of Decatur*, chap. ix.

into the batteries and town.* During the action one of the American gunboats was blown up by a stray shot from the Tripolitan batteries.† The loss on the American side was 22 killed and 6 wounded.‡ On the night of August 24 a third bombardment took place, with little apparent damage to the enemy, probably because many of the shells fell short and others were so defective that they failed to explode.§ On the night of August 28-29 Preble sent his flotilla into the harbor for the fourth time and again threw several hundred solid shot beside grape and canister into the town.¶ The eight American gunboats attacked the Tripolitan galleys, sank one, compelled two to run ashore, and put the rest to flight. In the attack, one of the boats of the *Adams* was hit, three men were killed, and one severely wounded. The other American vessels sustained little injury.¶ A fifth bombardment took place September 3 during which 50 shells and 400 round shot were fired** and

which was followed by an accident as terrible as it was mysterious.

On the night of the 4th Preble fitted up the ketch *Intrepid* as a floating mine, placing it in charge of Captain Somers. Somers was to take the *Intrepid* into the harbor, set her afire and leave her to explode among the gunboats and galleys of the enemy. He and the crew were to return in two boats which accompanied the vessel. The *Argus*, *Vixen*, and *Nautilus* escorted the *Intrepid* to shoal water, where they remained to await Somers' return. On leaving the fleet, the *Intrepid* slowly disappeared in the dense haze that covered the sea. Then followed a few minutes' breathless anxiety on the part of the watchers, a few moments' heavy firing from the enemy's batteries, and then a frightful explosion. The *Intrepid* was no more. The mangled corpses of Somers, Wadsworth and Israel and other courageous followers were afterwards picked up, but Bainbridge (then a prisoner in the hands of the Algerians) could not identify any of them. How the explosion occurred no one could tell.*

* Preble's report in *Annals of Congress*, pp. 1643-1644. See also Winsor, pp. 373-374; Allen, pp. 196-198.

† Cooper, *Naval History*, vol. i., pp. 245-246.

‡ Maclay, *History of the Navy*, vol. i., pp. 280-282.

§ Allen, p. 202; Cooper, vol. i., p. 248; Maclay, vol. i., pp. 283-284.

¶ Preble's report in *Annals of Congress*, pp. 1647-1648. See also Allen, pp. 202-204; Cooper, vol. i., pp. 248-249.

¶ MacDonough, *Life of MacDonough*, p. 80; Maclay, vol. i., pp. 284-285.

** Preble's report in *Annals of Congress*, pp. 1649-1650. See also Winsor, *Narrative and Critical History*, vol. vii., p. 374; Cooper, *Naval History*, vol. i., pp. 249-251; Allen, pp. 204-206; MacDonough, *Life of MacDonough*, pp. 80-81.

* See Sabine, *Life of Edward Preble*, pp. 99-103; MacDonough, *Life of MacDonough*, p. 82; Maclay, *History of the Navy*, vol. i., pp. 286-293; Cooper, *Naval History*, vol. i., pp. 252-259; Allen, *Our Navy and the Barbary Corsairs*, pp. 207-210; McMaster, vol. iii., p. 206; Adams, *United States*, vol. ii., pp. 427-428. Preble's full report will be found in *American State Papers, Naval Affairs*, vol. i., p. 133; *Annals of Congress*, 8th Congress, 2d session, pp. 1651-1652. See also J. R. Soley, *Operations of the Mediterranean Squadron under Commodore Preble*, in *Proceedings of the United States Naval Institute*, vol. v.,

On September 10 Commodore Samuel Barron arrived, bringing with him nearly the whole available navy of the United States.* The squadron consisted of the *Constitution* (David Porter, acting captain) and the *President* (Captain James Barron), 44's; the *Constellation* (Captain H. G. Campbell) and the *Congress* (Captain Decatur) 36's; the *Essex* (Captain George Cox) 32; the *Hornet* (Lieutenant Samuel Evans) 10; the *Siren* (Captain Charles Stewart) and *Argus* (Captain Isaac Hull), 16's; the *Vixen* (Captain John Smith), *Nautilus* (Captain John H. Dent), and *Enterprise* (Captain Thomas Robinson), 12's; the *Franklin*, 8; nine gunboats, and two bomb-vessels.† With the exception of the frigates *Chesapeake* and the *United States*, hardly a sea-going vessel was left at home.

no. iv.; William Eaton, *Interesting Detail of the Operations of the American Fleet in the Mediterranean in a letter from William Eaton, November 5, 1804*. A facsimile of the medal given to Preble is in Lossing, *Field-Book of the War of 1812*, p. 123.

* Captain John Rodgers was soon placed in actual command, Barron being ashore too ill to manage the affairs of the squadron (Allen, p. 223). For the services of Rodgers see Charles O. Paulin, *Services of Commodore John Rodgers in Our Wars with the Barbary Corsairs, 1802-1806*, in *Proceedings of the United States Naval Institute*, vol. xxxiv., pp. 1141-1188 (1908); *ibid*, *Life of Rodgers*, p. 122 *et seq.* (1910).

† Allen, pp. 223-225. Cooper (*Naval History*, vol. i., p. 261) gives the armament somewhat differently. As the fleet was constituted under Barron, the officers commanding the vessels differed from the list given above, the changes occurring in November of 1804, when the fleet was placed under command of Rodgers, though the formal transfer of authority did not take place until May 22, 1805.

It will be remembered that William Eaton had been sent by Jefferson in Barron's squadron as navy agent. Eaton had been made consul to Tunis and was still in Africa when the Barbary war opened and Commodore Dale appeared before Tripoli with his fleet. It will be remembered also that some years before Yussuf Caramalli had usurped the throne and driven his elder brother, Hamet, into exile. As punishment to Yussuf, Eaton now proposed to restore this elder brother to the throne. He found Hamet ready to coöperate by attacking Tripoli by land while the American fleet bombarded it by sea,* but Hamet grew timid and began to listen to overtures from Yussuf. Besides, the officers of the fleet would not sanction the scheme.† Therefore, after wasting two years and \$22,000,‡ Eaton returned to the United States to lay his case before the President and Congress. But he found the Government pining for peace, not war.||

Nevertheless, in 1804, Eaton returned to the Mediterranean as navy agent. On reaching Cairo, December 8, 1804, he found that Hamet, with some rebellious Mamelukes, was besieged by the viceroy's troops at Minieh on the Nile.§ Eaton won over

* For these negotiations see *American State Papers, Foreign Relations*, vol. ii., p. 700 *et seq.*

† Felton, *Life of Eaton*, pp. 255-262; Prentiss, *Life of Eaton*, pp. 208-227; Allen, *Our Navy and the Barbary Corsairs*, pp. 100-104.

‡ Allen, pp. 121-122.

§ *Life of William Eaton*, p. 262 (Brookfield).

§ Allen, pp. 229-230.

the viceroy and persuaded him to allow Hamet to cross his lines and enter Egypt. On February 23, 1805, he made a convention with Hamet,* arranged a plan of joint operations with Barron, and started toward Derne, with an army of about 400 men.† Under ordinary circumstances the journey might have been made in 14 days, but Eaton's army consumed more than six weeks. The camel drivers revolted; the Arab chiefs refused to proceed; the sheiks quarreled among themselves; the Mussulmen plundered the Christians,‡ and once a pitched battle over the provisions was barely averted.|| After many vicissitudes Eaton and his force arrived at Bomba, just east of Derne, April 15, 1805.§ But to Eaton's consternation and despair, not a ship was in sight. Hence the Arabs hurled fresh imprecations at him as an infidel traitor, and resolved to desert him the next morning. But fortunately Eaton was saved by the arrival of Hull with the *Argus*.¶

Drawing supplies from the three vessels (for the *Hornet* and the *Nautilus* had also arrived), the little army (on April 23) pushed on to Derne, which on their arrival (April 25) was

found to be garrisoned by 800 men,* who had thrown up earth works and loopholed the terraces and houses for musketry. As the governor refused to surrender, the attack was begun on the 27th, the three cruisers supporting Eaton. The battery of eight or nine guns fronting the sea was quickly silenced, whereupon Eaton's force stormed the town, driving out the governor and his garrison.† Thus, for the first time, the American flag waved over a city of the Old World.‡ On the opposite side, Hamet, with a small cavalry force, had effected a lodgment. Finding itself between two fires, the garrison surrendered, after a sharp encounter of two hours. In this attack only 14 of the assailants were killed or wounded, General Eaton being among the latter.||

A large force was now sent from Tripoli to retake the city, which forced Eaton to fight another battle on May 13 that might have resulted in a massacre, had not the ship's guns and Hamet's cavalry held the Tripolitans in check.§ Skirmishing continued for another month, without any appreciable advantage to either side. Commodore Barron declined to assist Eaton with further supplies and reinforcements, on the ground that, as

* For the text of which see *Annals of Congress*, 9th Congress, 2d session, pp. 721-723; *American State Papers, Foreign Relations*, vol. ii., p. 706; Allen, pp. 317-318.

† Allen, p. 232.

‡ Prentiss, *Life of Eaton*, p. 312.

§ *Ibid.*, pp. 323-324.

|| Allen, pp. 232-238.

¶ *Life of Eaton*, p. 328 (Brookfield).

* Cooper (*Naval History*, vol. i., p. 264) says between 3,000 and 4,000.

† Allen, pp. 239-241.

‡ Cooper, *Naval History*, vol. i., pp. 263-264.

§ Prentiss, *Life of Eaton*, p. 336 *et seq.* (Eaton's report).

|| Allen, pp. 241-242.

Hamet was now in possession of one-half of the Regency, he ought to be able to effect his object by means of the ordinary coöperation of the squadron.* Suddenly the ground was cut from under Eaton's feet by Lear's astonishing treaty with the Pacha.

While Eaton was conducting his operations at Derne, a change seems to have come over the Pacha at Tripoli. He knew that Rodgers was preparing for an assault which would make Preble's bombardments seem gentle in comparison. Eaton at Derne was a constant menace; his own subjects might break out into open revolt at any moment; and a change of ruler was so common that in the alternative of losing his throne and head in one way or the other, Caramalli decided that peace was less hazardous than war. Therefore, when he heard that his troops had failed to recapture Derne, he entered into negotiations with Lear. Barron had gone home, sick, and the command of the squadron had passed to Commodore Rodgers,† who, jealous of the success of Eaton, was ready to aid Lear in making any treaty the latter thought best. After the usual intrigues, appeals, and prevarications, a treaty was drawn up on June 3 and signed June 10, by which the United States was to pay no tribute there-

after, save \$60,000 ransom money for the crew of the *Philadelphia*.* It was understood, however, according to ancient custom, that when a consul was appointed, a present not exceeding \$6,000 should be sent with him. It was ratified by the Senate April 12, 1806.†

On learning what Lear had done Eaton was very indignant, for Lear's treaty not only sacrificed Eaton's Mohammedan allies and provided for the payment of \$60,000 for the imprisoned seamen, but left the Mohammedans at Derne to be massacred and threw Hamet on Eaton's hands. But one step was needed to complete this shameful deed, and that was quickly taken. The *Constellation* was sent to Derne; Hamet was informed of the treaty; false reports of further war were spread among the soldiers; ammunition was issued; rations were given out; and in the dead of night Eaton, Hamet, the Greeks and the Americans were hurried aboard the *Constellation*. The treachery was discovered and as the last boat-load pushed off for the frigate the people and soldiers crowded the camp, the battery, and the shore, filling the air with shrieks, and loudly cursing the

* Mackenzie, *Life of Perry*, vol. i., pp. 67-68; Cooper, *Naval History*, vol. i., p. 264; Maelay, *History of the Navy*, vol. i., p. 300; *American State Papers, Foreign Relations*, vol. ii., pp. 711-712.

† Paullin, *Life of Rodgers*, p. 135.

* *Annals of Congress*, 9th Congress, 2d session, pp. 698-702; Winsor, *Narrative and Critical History*, vol. vii., p. 375; Cooper, *Naval History*, vol. i., p. 226. For the proceedings of the fleet under Commodores Barron and Rodgers and Eaton's campaign see *American State Papers, Foreign Relations*, vol. ii., pp. 695-725.

† Allen, *Our Navy and the Barbary Corsairs*, pp. 246-251, 319-320.

Americans.* Landed at Syracuse with a suite of 30 persons, without means of support, Caramalli became a suppliant for alms to the United States Congress some time afterward.† About \$2,400 was voted for this purpose which only partially satisfied the exiled Pacha.‡ Eaton declared the treaty disgraceful and considered himself mistreated and much injured. The settlement of his accounts was slow and difficult. He returned to America and received large donations, especially from the Legislature of Massachusetts, which granted him 10,000 acres of land in Maine as an expression of their high esteem of his heroism and patriotic services. In 1811 he died, a victim to drink and craving for excitement.¶

Thus ended the war with Tripoli. When the treaty was signed, the gunboats started for Syracuse, which they reached in a few weeks, and on August 1 Rodgers anchored in Tunis Bay with the *Constitution*, *Constel-*

lation, *Congress*, *Vixen*, *Essex*, *John Adams*, *Siren*, *Nautilus*, *Enterprise*, *Hornet* and several gunboats, prepared to bring the ruler of that city to terms. Under the very muzzles of its guns, Rodgers carried on a spirited negotiation and finally forced a settlement satisfactory to one of the parties at least.* The Bey then sent an ambassador to the United States, who in September sailed with Decatur in the *Congress*. This ambassador ventured to ask for the tribute formerly paid, which was explicitly refused, whereupon the Bey decided to drop his former tactics.† For some time a small squadron was kept in the Mediterranean to prevent further depredations by the Barbary corsairs, but one by one these ships were sent back to the United States. The cost of the war had been enormous and there had been considerable loss of life, but the gain was well worth the cost since a great source of annoyance to American merchantmen was removed. Furthermore, the war had made manifest the fighting abilities of American seamen, which, in the light of European conditions, it behooved the Administration to develop.‡

* Eaton to Rodgers, June 13, 1805. *American State Papers, Foreign Relations*, vol. ii., pp. 715-716; *Annals of Congress*, 9th Congress, 2d session, pp. 748-750. See also McMaster, vol. iii., p. 208; Adams, *United States*, vol. ii., pp. 434-435; Prentiss, *Life of Eaton*, p. 362; Allen, pp. 244-245, 252-262.

† For his memorial see *American State Papers, Foreign Relations*, vol. ii., pp. 26-29. See also Jefferson's message of January 13, 1806, in *Annals of Congress*, 9th Congress 1st session, pp. 48-50; also 10th Congress, 1st session, vol. i., pp. 2330-2337.

‡ Allen, p. 263 *et seq.*; Schouler, *United States*, vol. ii., pp. 124-125; *Annals of Congress*, 9th Congress, 1st session, pp. 185, 188, 191, 210, 224, 225, 231, 242, 244, 246, 1079, 1083, 1106.

¶ Prentiss, *Life of Eaton*, pp. 243-256, 267, 405-406; Felton, *Life of Eaton*, pp. 339, 354.

* Paullin, *Life of Rodgers*, pp. 146-159; Allen, *Our Navy and the Barbary Corsairs*, p. 267 *et seq.*; Cooper, *Naval History*, vol. ii., pp. 7-9; Maclay, *History of the Navy*, vol. i., p. 301.

† Allen, pp. 271-272.

‡ For some years afterward, however, the Barbary Powers continued to seize American vessels and imprison their crews, for details of which see Allen, p. 273 *et seq.* In this connection, see also R. S. Rodgers, *Closing Events of the War with Tripoli*, in *Proceedings of the United States Naval Institute*, vol. xxxiv., pp. 889-916 (1908).

CHAPTER VI.

1800-1805.

THE SPREAD OF DEMOCRACY.

Limitation of suffrage — Extension of the franchise — The Ohio Constitution — Attack on life tenure — Impeachment of Addison in Pennsylvania — The case of Thomas Passmore — The attempt to amend Pennsylvania constitution — Schism in the Republican party — The address of Judge Chase — Judge Pickering's impeachment by the House — Marshall's decision in the case of *Marbury vs. Madison* — Impeachment of Judge Chase — Judge Pickering's trial and conviction — Judge Chase's trial and acquittal — The Twelfth Amendment — The Presidential election of 1804 — Amendments of laws in Massachusetts and Connecticut — Jefferson's second inauguration.

The political rights of the people as they existed at this time need some elucidation. In the seaboard States very little democracy existed, and everywhere the political rights of the people were hedged about with such restrictions as would not be tolerated now. The right of suffrage and the right to hold office depended on a person's religious opinions or on his wealth, not on his qualifications as a man. By law, voters were supposed either to own land or property, to rent houses, or to pay taxes. In Maryland, North Carolina, and South Carolina a voter was required to own 50 acres of land; other States required property to the value of £30, or a white skin and property valued at £10. Pennsylvania required a property tax; in another State a voter had to have a freehold of 40 shillings or personal property to the value of £40; South Carolina required the belief in God and in a future life, coupled with the ownership of 50

acres of land; New York required a freehold worth £20, or a house rent of 40 shillings and a registration on the tax-payer's list; Massachusetts a freehold estate bringing an annual revenue of £3, or real estate worth £60; Connecticut an estate worth \$134 or yielding an annual income of \$7; while in New Jersey it was not until 1807 that the franchise was limited to free white males 21 years old,* who owned £50 proclamation money, a clear estate, or paid a State or county tax.†

The right to vote, however, did not carry with it the right to hold office. New Hampshire, Vermont, Connecticut, and New Jersey forbade the election to the governorship of any Jew, Roman Catholic, Atheist, or free thinker; Maryland and Massachusetts restricted the office to rich Christians; while others required that the office-

* Previously women, negroes and aliens had been allowed to vote.

† McMaster, vol. iii., pp. 146-147.

holder be either a Trinitarian and believe that the Scriptures were inspired, or a Protestant and believe in the divine authority of the Bible or acknowledge one God and openly declare that the Testaments were divinely inspired. Some States required the governor to own property worth £100, £500, £5,000, or £10,000; others 250 or 500 acres of land, with similar qualifications for members of the legislatures. New Hampshire required of her senators a freehold worth £200, and one valued at £100 of her representatives; Massachusetts, a freehold of £300 or personal property of £600 for senators and £100 and £200, respectively, for representatives. In New Jersey, Delaware, and Maryland senators had to own real or personal estate to the value of £1,000, or, in Delaware, 200 acres of land; in North Carolina senators had to own 300 acres; in South Carolina the representatives must own 500 acres and 10 negroes; Georgia required her legislators to own 250 acres of land and support the Christian religion. In New York, Delaware, and Maryland no priest or minister of any creed could hold civil office, while in Georgia the clergy were debarred from membership in the assembly.

During the last decade of the Eighteenth century the constitutions adopted by the various States materially extended the rights of the people in this respect.* Pennsylvania dis-

carded the religious test and required only the payment of taxes. South Carolina also dropped the religious requirements; New Hampshire required only that a voter be 21 years of age; Delaware removed religious requirements and granted the right of franchise to every free white man who paid his taxes and had resided in the State for two years. Vermont extended the suffrage to every white or black man; Connecticut to any white 21 years of age who had lived in the State one year; while Georgia removed the religious and property qualifications. New Jersey attempted to restrict the franchise, but the people would have none of this.*

With the opening of the Nineteenth century came the so-called "triumph of Democratic principles." The adoption of the Ohio constitution, therefore, came at a time when long-established precedents and time-honored usages had been or were being overthrown and discarded. In this constitution many new ideas were incorporated. The governor made no nomination, had no veto power, signed no bills, took no part in legislation, and, with few exceptions made no appointments. The legislature appointed all civil officers and elected the judges for a term of seven years. The governors of South Carolina, Tennessee, and Delaware possessed no veto power; in Tennessee, North Carolina, and Rhode Island the governors could make no appointments;

* The various constitutions will be found in Thorpe, *Federal and State Constitutions*, vols. i.-vii., *passim*.

* McMaster, vol. iii., pp. 149-151.

while in others the terms of judicial officers were limited.* The Ohio constitution is important as being the first in which all three attributes of democracy had been incorporated.†

Life tenure of office was the principle bane of the Democrats, and the question assumed a political importance when the States began to turn from Federalism to Republicanism, for the Democrats could not bear to see old Federalists sitting on the bench and making legal decisions when every other Federalist officeholder, owing to a change in political sentiment, had been driven into private life. It was thought that the judges should be placed on a par with other office-holders and be held subject to the will of the people—a feeling which was strongest in Pennsylvania. After 1799, when the Republicans came into power, an assault was made on the independent judiciary.

On the bench of the supreme court of that State sat four judges who held office during good behavior, but were removable for serious offences by impeachment proceedings and for trivial offences by the governor on the petition of two-thirds of the Legislature. There were five courts of common pleas, over which presided a “president judge,” one of whom (Alexander

Addison) had made himself obnoxious by the lectures on politics he delivered from the bench. In one of these talks he said that the jury, while they could do so legally, were too ignorant to distinguish between the right to judge and the ability to judge; that their complaints against the Government were made in proportion to their ignorance, etc. Enraged by these scoldings, the people petitioned the Legislature to remove him. A committee of the House found Addison guilty of gross usurpation of authority and recommend his impeachment. Accordingly, in January of 1803, he was impeached by the House, tried before the Senate, and found guilty of a misdemeanor, ordered to be removed and thenceforth was disqualified from holding the office of judge in any part of the State.*

Almost at the same time occurred another case of judiciary usurpation. A Philadelphian, named Thomas Passmore, engaged in commercial enterprises, had insured his boats to protect himself against loss. One of the vessels sprang a leak and as the bill of repairs amounted to more than half the insurance, Passmore abandoned her and demanded payment from the insurance underwriters. The latter refused, but Passmore sued and won his case. According to supreme

*In Georgia the term was three years and in New Jersey five or seven years; in Connecticut or Rhode Island they were appointed annually, and in Vermont they were elected annually or oftener, if necessary.

† McMaster, vol. iii., pp. 151-152.

* McMaster, vol. iii., pp. 153-157; Channing, *The Jeffersonian System*, pp. 113-114; *Trial of Alexander Addison, Esq., on an Impeachment before the Senate of Pennsylvania (1803)*; Schouler, *United States*, vol. ii., p. 61.

court rules, exceptions might be filed in four days, but exceptions were taken for thirty. Passmore then issued an abusive paper against the refractory underwriters, for which he was haled to court for contempt, ordered to apologize, and, on his refusal to do so, was fined \$50 and sentenced to thirty days' imprisonment. Passmore complained to the Legislature and the House finally impeached Edward Shippen, Jasper Yeates, and Thomas Smith, the three justices who sat at the trial of Passmore. The whole community was then aroused; politics were forgotten; and all over the State lawyers, judges, and others made common cause against the Democrats—Dallas, McKean and many of the Republican leaders breaking away from their followers and attempting to check their violence.* When the Legislature passed a bill reforming the judiciary system, McKean returned it with his veto. When the managers of the impeachment case sought for counsel among the Democratic lawyers, neither Alexander J. Dallas, Jared Ingersoll, Peter Du Ponceau, nor any other lawyer of note in Pennsylvania would serve them, and they were compelled to employ Cæsar A. Rodney, of Delaware. Governor McKean likewise refused to accede to the request of the Legislature to remove Hugh H. Brackenridge, who had written to the Legislature approving the action of

the court in the Passmore case. When the trial came before the Senate, the judges were declared not guilty by a vote of 13 to 11.*

A cry for reform immediately rent the air and the Republicans determined to secure an amendment to the State constitution, but it was necessary that the people petition the Legislature to call a convention to make an amendment and submit it to the people for ratification. Those who favored amendment organized a Society of Friends of the People, drew up a constitution after their own ideas, and framed a petition to the Legislature. Appeals were sent to all the Democrats in the State, urging them to the same. Those who opposed amending the constitution called themselves Constitutional Republicans and sent out petitions opposing the holding of a convention. When the time came for counting the petitions, it was found that 74 (coming from 11 counties and bearing 4,994 names) were in favor and 89 (coming from 9 counties and bearing 5,590 signatures) were opposed to the step. Nevertheless, the Legislature decided to refer the whole matter to the people.† This was easy enough, since the gubernatorial election was now at hand and there was an excellent opportunity to ascertain the will of the people. In ordinary times the elec-

*Schouler, *United States*, vol. ii., pp. 61-62.

*McMaster, vol. iii., pp. 157-159; Channing, *The Jeffersonian System*, p. 114; *Trial of the Pennsylvania Judges on an Impeachment* (1805).

†McMaster, vol. iii., pp. 159-161.

tion would have been tame, but at this time the leaders of the Republican party in the State were quarrelling among themselves and a schism in the party had already taken place. Writing to Badollet, October 25, 1805, Gallatin said:

"The thirst for offices, too much encouraged by Governor McKean's first measures, created a schism in Philadelphia as early as 1802. [Michael] Leib, ambitious, avaricious, envious, and disappointed, blew up the flame, and watched the first opportunity to make his cause a general one. The vanity, the nepotism, and the indiscretion of Governor McKean afforded the opportunity. One of mutual forbearance among the best intentioned and most respectable Republicans has completed the schism. Duane, intoxicated by the persuasion that he alone had overthrown Federalism, thought himself neither sufficiently rewarded nor respected; and possessed of an engine which gives him an irresistible control over public opinion, he easily gained the victory for his friends."*

The Republicans nominated Simon Snyder for governor, and the Constitutionalists named Thomas McKean. During the campaign the newspapers were filled with essays, letters, appeals, addresses, and resolutions. Various remedies were suggested for the evils supposed to result from the defects of the existing constitution, and the amendments suggested were discussed most fully. Nevertheless, the efforts of the would-be amenders proved unavailing. When the ballots were counted, McKean was found to be the victor by over 5,000, the vote standing McKean 43,644, Snyder 38,433. The attempt to secure an amending convention was then abandoned.†

* Adams, *Life of Gallatin*, p. 331.

† McMaster, vol. iii., pp. 161-162.

A struggle took place over the reelection of Leib to Congress, which the *Aurora* carried by a few hundred votes. Republicans of the stamp of Dallas who would not support Leib were nicknamed Quids by Duane. As three-quarters of the Republicans followed the *Aurora*, the Quids became deserted leaders. Jefferson was much in sympathy with Gallatin, McKean, and Dallas, but his political strength depended on the popular vote which followed Duane and Leib. That he feared the effect of this schism on the prospects of the Republican party cannot be doubted, for in writing to Dr. Logan on May 11, 1805, he said:

"I see with infinite pain the bloody schism which has taken place among our friends in Pennsylvania and New York, and will probably take place in other States. The main body of both sections mean well, but their good intentions will produce great public evil. The minority, whichever section shall be the minority, will end in coalition with the Federalists and some compromise of principle. Republicanism will thus lose, and royalism gain, some portion of that ground which we thought we had rescued to good government."*

The Pennsylvania schism, however, was not serious, and the chief result of it was to check the aggressive energy of the Democratic movement by alarming a few of the older leaders and causing them to halt.‡

The influence of this agitation was evident in several of the States, but nowhere was it greater than in Maryland, where the Constitution was sev-

* Washington's ed. of *Jefferson's Works*, vol. iv., p. 575.

‡ Adams, *United States*, vol. ii., p. 200.

eral times amended, the franchise extended, and the general court and the court of appeals abolished. These enactments seemed so terrible to Judge Samuel Chase of the United States Supreme Court that, while riding his circuit, he denounced them from the bench before the people of Baltimore. On May 2, 1803, shortly after Marshall had rendered his decision in the case of *Marbury vs. Madison*, Chase addressed the grand jury at Baltimore on the Democratic tendencies of the local and National governments, saying:

"The history of mankind, in ancient and modern times, informs us that a monarchy may be free and that a republic may be tyranny. * * * Where law is uncertain, partial, or arbitrary, where justice is not impartially administered to all, where property is insecure, and the person is liable to insult and violence without redress by law, the people are *not free*, whatever may be their form of government. To this situation I greatly fear we are fast approaching. * * * The late alteration of the Federal judiciary by the abolition of the office of the sixteen circuit judges, and the recent change in our state constitutions [that of Maryland] by the establishing of universal suffrage, and the further alteration that is contemplated in our state judiciary, if adopted, will, in my judgment, take away all security for property and personal liberty. The independence of the national judiciary is already shaken to its foundation, and the virtue of the people alone can restore it. * * * Our Republican Constitution will sink into a mobocracy, the worst of all possible governments. * * * The modern doctrines of our late reformers, that all men in a state of society are entitled to enjoy equal liberty and equal rights, have brought this mighty mischief upon us; and I fear it will rapidly progress until peace and order, freedom and property, shall be destroyed."*

While it would have been proper for Chase to have given his opinion as a private citizen, the bench was not the proper place to give expression to such opinion, nor was the time of charging a jury a fit occasion for such remarks. The Democrats thereupon demanded that he be broken.

Meanwhile another case had arisen in New Hampshire. In November of 1802 a case came up before Judge John Pickering, of the New Hampshire district court, but this judge was so drunk and profane that the trial was postponed until the next day. Then, when court opened the judge was still far from sober. He refused to hear the witnesses for the prosecution and insisted upon awarding the verdict to the defendant. The district-attorney demanded an appeal to the circuit court, but the judge refused it. Thereupon charges were preferred against him. Early in February of 1803, a few days before the Supreme Court met, President Jefferson sent a message to Congress transmitting letters and affidavits containing the complaint against Pickering.* The House referred the message to a committee of five, controlled by Joseph Nicholson and John Randolph. The committee reported on the 18th that the judge ought to be impeached;† and before the session closed, the House, by a vote of 45 to 8, adopted this report and sent Nichol-

* *Annals of Congress*, 8th Congress, 2d session, pp. 673-676; Channing, *The Jeffersonian System*, p. 116.

* *Annals of Congress*, 7th Congress, 2d session, p. 460.

† *Ibid.*, p. 544.

son and Randolph to the bar of the Senate to impeach Pickering of high crimes and misdemeanor.* On March 3, the last day of that session, the two members delivered their message to the Senate;† but, as Congress was about to adjourn, the proceedings went over to the next session of the Senate.‡

Hardly had Jefferson sent his message to Congress when on February 24, 1803, Marshall rendered his decision in the case of *Marbury vs. Madison*,|| a case arising from the actions of Adams before he left the Presidential office. The District of Columbia had been divided into two counties, that which lay on the Virginia side of the Potomac being called Alexandria County, while that on the Maryland side was to be known as the County of Washington. By the terms of the act of February 27, 1801, Adams had power to appoint as many justices of the peace in each county as he considered best, to hold office for five years; and on March 2, 1801, he nominated four men—William Marbury, Dennis Ramsey, Robert Hoee, and William Harper. Late on the 3d the Senate confirmed these nominations and toward midnight

Adams signed the commissions, which were sealed by Marshall as Secretary of State and committed to the care of Madison, his successor. These were the famous “Midnight Judges.” But Jefferson said that Adams, knowing that the Republicans were coming into power, ought not to have signed these commissions. He therefore declared null and void every appointment made after December 12, 1800 (the date when it became definitely known that the Republicans had won the election) and ordered Madison to withhold the commissions. The four appointees then went to court and at the December term of 1801 asked for a mandamus compelling Madison to issue the commissions. This being granted, the fourth day of the next term was set for a hearing. But before the next term arrived, the Judiciary Act had been amended and the August term abolished, thereby suspending the sittings of the Supreme Court for fourteen months.*

In rendering his opinion in 1803, Marshall decided that the court had no original jurisdiction in this case; but, instead of beginning at that point and dismissing the motion, he entered into a discussion of the merits of the case and ruled that when a commission had been duly signed and sealed the act was complete, the deliverance

* *Annals*, pp. 641-642.

† *Ibid.*, p. 644; also 8th Congress, 1st session, pp. 315-316.

‡ McMaster, vol. iii., pp. 165-167; Adams, *United States*, vol. ii., pp. 143-144.

|| Channing (*Jeffersonian System*, p. 118) says that this is the one decision of Marshall's judicial career which still gives pain to all but his blindest admirers.

* McMaster, vol. iii., pp. 164-165; Adams, *United States*, vol. ii., pp. 144-146; Channing, *Jeffersonian System*, pp. 117-118; Magruder, *Life of Marshall*, pp. 182-186; Thayer, *Life of Marshall*, pp. 72-79, 95-96.

of the commissions not being necessary to make it valid. Marbury's appointment was complete, the court held, and as the law gave him the right to hold office for five years independent of the executive, his appointment was not revokable; "to withhold his commission, therefore, is an act deemed by the court not warranted by law, but violative of a legally vested right." He said, further, that it was not necessary for these judges to have the certificates of appointment before taking their seats; these were merely evidences of appointment, not qualifications thereof. He ruled that Marbury had a vested legal right to his commission, of which the executive could not deprive him; that, although the court could not interfere with the prerogatives of the executive, it could and would command a head of a department to perform a duty not dependent on executive discretion. He said, therefore, that the Supreme Court had not the right to mandamus the Secretary of State, that being outside the original jurisdiction granted by the Constitution, but that such a mandamus ought to issue from the district court.* This defiance from the Supreme Court naturally exasperated Jefferson and the Republicans in Congress, who therefore began an attack on the Federalist judiciary by impeaching Pickering.

Before the trial of Pickering came

up, however, Jefferson had decided upon the impeachment of Judge Chase and accordingly, when Congress met, Randolph introduced a resolution to this effect.*

Randolph threw himself into the new undertaking with great energy, for he sincerely believed in the justice of the case and thought the country in danger if the Supreme Court were left in the hands of Marshall and men of his stamp. Deeming the language of the Baltimore charge insufficient ground on which to bring impeachment proceedings, Randolph decided to insure success by going back to the trial of John Fries. On January 5, 1804, he rose in the House and said that during the last session John Smiley, of Pennsylvania, had made some statements regarding the official conduct of Judge Chase which he thought the House ought to notice.† In the course of a debate on the judiciary bill, Smiley had asserted that the assignment of Chase to the circuit in which Pennsylvania lay was not a judicious one, since the judge was obnoxious to the people of that State. When requested to state his reasons, Smiley told the story of the trial of Fries; how counsel for the defendant had been insulted, browbeaten, and

* Jefferson wished Nicholson to bring the impeachment proceedings, but the latter's friends dissuaded him. See Washington's ed. of *Jefferson's Works*, vol. iv., p. 486; Channing, *The Jeffersonian System*, p. 120; Adams, *United States*, vol. ii., pp. 150-151; Gordy, *Political History*, vol. i., p. 449; McMaster, vol. iii., p. 170.

† *Annals of Congress*, 8th Congress, 1st session, pp. 805-807.

* Adams, *United States*, vol. ii., pp. 146-147; McMaster, vol. iii., p. 167.

driven from the court; how the prisoner had been convicted and sentenced to be hanged; and how when he heard of the conduct of the judge Adams had pardoned Fries.* The House thereupon appointed an investigating committee† which reported in favor of impeaching Chase, and accordingly two members of the House (John Randolph and Peter Early) were dispatched to institute proceedings before the Senate.‡ But as the session of Congress was drawing to a close, the matter was postponed until the next session, to convene on November 5.

Meanwhile Judge Pickering's trial had begun. Early in January of 1804, the House exhibited four articles against him: the first and second charging him with violations of the law; the third accusing him of refusing an appeal; and the fourth charging him with drunkenness and blasphemy.|| When the court opened, March 2, 1804, Judge Pickering's name was called three times without answer, nor was he represented by counsel. Vice-President Burr then submitted to the Senate a petition from his son, Jacob S. Pickering, and a letter from Robert Goodloe Harper.§

The petition alleged that at the time when the crimes with which Pickering was charged were committed, as well as two years before and ever since he had been insane. He was incapable of transacting any kind of business requiring the exercise of reason, was incapable of exercising any judgment, and therefore could not be subject to impeachment nor amenable to any tribunal for his actions. Harper stated that he was not acting as counsel for Judge Pickering, since the latter was insane and could give no power of attorney. He came as a friend of the son to ask for a postponement of the trial.* The question was whether the court would hear evidence and counsel respecting the insanity of Judge Pickering, for the impeachment managers were between the alternatives of saying either that an insane man was responsible or that a man mentally irresponsible might still be guilty of high crimes and misdemeanors for purpose of impeachment. Harper was allowed to present his testimony in his unauthorized capacity, and his testimony was decisive as to the insanity.† When he arose to testify, the impeachment managers retired, asserting that they would support the articles of impeachment, but would not discuss a question raised by a third party unauthorized by the accused.‡ The Senate continued its session and, having listened to the

* Adams, *John Randolph*, p. 98 *et seq.*

† *Annals of Congress*, 8th Congress, 1st session, pp. 820-876; Benton, *Abridgment of Debates*, vol. iii., pp. 88-125.

‡ McMaster, vol. iii., pp. 169-172; Adams, *United States*, vol. ii., pp. 152-153.

|| For text see *Annals of Congress*, 8th Congress, 1st session, pp. 319-322.

§ For text see *ibid.*, pp. 328-330.

* *Annals*, pp. 330-331.

† *Ibid.*, pp. 331-342.

‡ *Ibid.*, pp. 343-344, 1097-1098.

evidence in support of insanity, spent the next day in listening to the testimony of the prosecution.* The Senate was confronted with a most delicate question. To acquit Pickering would probably be fatal to the impeachment of Chase, and would mean also that the people could not protect themselves against misbehavior in their judicial servants. On the other hand, if Pickering were convicted, they would violate the principle of law and justice declaring that an insane man was not responsible for his acts. Randolph and Nicholson were ready to create a precedent fixing the rule that impeachment did not imply criminality, and might be equivalent to removal by address, but the consciences of the Democrats revolted against saying "guilty" where no guilt was implied. Therefore a compromise was adopted. The Federalists would have forced the Senators to declare whether Judge Pickering was guilty or not guilty of high crimes or misdemeanor, but Senator Anderson, of Tennessee, moved that a yea and nay vote be taken on the question as to whether Pickering was guilty as charged. Though nine Federalists opposed this motion, it was at last adopted by a majority of two to one. Pickering was declared guilty as charged in the articles of impeachment by a vote of 19 to 7, and by a vote of 20 to 6 the Senate resolved that he ought to be removed from

office.† On the same day, March 12, the House passed Randolph's report, and, by a vote of 73 to 32, decided that Chase should be impeached.‡ The next morning Randolph again appeared at the bar of the Senate and announced that the House of Representatives would in due time exhibit articles of impeachment against Judge Chase,§ but the trial, as already stated, went over to the next session.

At last, on December 6, 1804, all was ready. The articles of impeachment were eight in number|| and charged Judge Chase with arbitrary, oppressive, and unjust conduct in the trial of Fries; with having issued a *capias* against Callender when the Virginia law required a summons to appear at the next court; with "intent to oppress" in that he had held Callender for trial at once, contrary to the law of Virginia; with "manifest injustice, partiality, and intemperance"; and with addressing to the grand jury in May of 1803 "an intemperate and inflammatory political harangue," etc.§ George W. Campbell, Joseph H. Nicholson, John Randolph, Caesar A. Rodney, John Boyle, Peter Early, and Christopher Clark were the managers for the House, and the counsel for Chase were Luther

* *Annals*, pp. 367-368; Adams, *United States*, vol. ii., pp. 155-157; McMaster, vol. iii., pp. 172-173; Channing, *The Jeffersonian System*, pp. 114-115.

† *Annals*, pp. 1171-1180.

‡ *Annals*, p. 272. Randolph's report of the articles in *Annals*, pp. 1237-1240.

|| For text see *Annals*, 8th Congress, 2d session, pp. 85-88.

§ Adams, *John Randolph*, p. 137 *et seq.*

* *Annals of Congress*, 8th Congress, 1st session, pp. 345-359.

Martin, Robert Goodloe Harper, Charles Lee, Philip Barton Key, and Joseph Hopkinson. On December 10 they proceeded to the trial, but after the articles had been read, the trial was postponed for a month, as notice had to be served on the judge, rules drawn up for the guidance of the court,* and the Senate Chamber be prepared for the trial. On January 2, 1805, the proceedings were resumed. The Secretary read the returns of the summons, Judge Chase appeared and presented a short and temperate answer, denying that he had committed any crime or misdemeanor, speaking of the importance of the impeachment not only to himself but to the government, and requesting that the trial be postponed until the next session of Congress so that he might prepare his answer and secure counsel.† The request was denied and by a vote of 22 to 8 he was required to answer charges on February 4.‡

Promptly on February 4, 1805, the managers and the counsel for the accused appeared in their places, Burr as president of the Senate presided over the court.¶ The first day was

taken up with reading Judge Chase's plea and a roll-call of the witnesses.* The opening speech was made by Randolph who put himself forward as the leading counsel for the prosecution.† This was the chief blunder of the prosecution. Randolph caused the managers' replication to be worded offensively, misquoted authorities, and conducted the case with little regard for the decorum and gravity of such a tribunal.‡

Grave as were the charges, none of the articles alleged an offence known to the statute books or the common law, and Randolph's first task was to show that they could be made the subject of impeachment, that they were high crimes and misdemeanors under the meaning of the Constitution, or that in some sense they were misde-

* *Annals*, pp. 101-151. Their testimony is on pp. 166-311.

† See *Annals*, pp. 153-165; Benton, *Abridgment*, vol. iii., pp. 192-199.

‡ Schouler, *United States*, vol. ii., pp. 86-87. In speaking of Randolph's conduct of the case against Chase, it has been said: "His failure was decided. From the point of view which lawyers must take, his arguments, if arguments they can be called, are not even third rate; they are the feeblest that were made in the course of this long trial. He undertook to speak as an authority upon the law, when he knew no more law than his own overseer; naturally given to making assertions stand for proof, he asserted legal principles calculated to make Luther Martin's eyes sparkle with delight. From first to last he never rose above the atmosphere of a court room. Avoiding all discussion of impeachment as a theory, and leaving unnoticed the political meaning of his eighth article, he deliberately tangled his limbs in the meshes of law, and offered himself a willing victim to the beacon claws of the eagles who were marking him for their sport." —Adams, *John Randolph*, p. 143.

* For which see *Annals*, pp. 89-92.

† *Ibid.*, pp. 92-98.

‡ *Ibid.*, pp. 99-100; McMaster, vol. ii., pp. 174-175.

¶ Parton, *Life and Times of Aaron Burr*, pp. 374-375. For the efforts to win over Burr and the other opponents of the Administration, see *Adams, United States*, vol. ii., pp. 221-223; Channing, *The Jeffersonian System*, pp. 123-124; *Diary of J. Q. Adams*, vol. i., p. 322; McMaster, vol. iii., pp. 176-177.

meanors. In their argument the managers of the impeachment case said that the difference between the terms crime and misdemeanor as used in the laws and the terms high crime and misdemeanor as used in the Constitution, was precisely the difference between indictment and impeachment. The ordinary murderer, forger, or thief was arrested, then indicted and tried, but the criminal in the meaning of the Constitution was never arrested, no process was issued against his person, nor was he sent to jail by an indictment. He was merely summoned to appear at the bar of the Senate to answer the charges against him. The indicted criminal might be deprived of life, liberty, and property, whereas the impeached criminal could be deprived of nothing but office and the right to hold office. A judge might be indicted for murder, but he could not be impeached for murder, since no one could be tried twice for the same offence. Impeachment proceedings, then, were brought against officers in their official capacity for abuse of power, whereas indictments were brought against men acting as men and not as officers.*

After Early and Campbell had spoken, February 20-21,† Joseph Hopkinson opened for the defence and vigorously assailed the argument of the managers.‡ The whole effort of Chase's counsel was to drive the im-

peachers within the limits of law and to compel them to submit to the restrictions of legal methods. Hopkinson struck at the core of the matter when he maintained that every act impeachable was also an act indictable, but not every act indictable was impeachable. He said that if this were true, a man might be both indicted and impeached for the same offence, or, in other words, might be tried twice for the same act. And so he might, for no other meaning could be given to the words of the Constitution, which had been overlooked by the managers, which stated that the party convicted under impeachment proceedings "shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to the law." Therefore, impeachment was no bar to indictment, nor was indictment a bar to impeachment, and one was liable to suffer both for the same crime. On the other hand, the House could not impeach him for an act for which he could not be indicted by the grand jury. While the House of Representatives had the sole power to impeach and grand juries had the sole power to indict, yet the latter could not indict for what was not indictable, nor could the former impeach for what was unimpeachable. The only acts warranting impeachment were treason, bribery, and other high crimes and misdemeanors — by which was meant high, not petty misdemeanors. Key spoke on February 22, confining

* McMaster, vol. iii., pp. 178-179.

† *Annals*, pp. 319-353; Benton, pp. 229-236.

‡ *Annals*, pp. 354-394; Benton, pp. 236-244.

his remarks to articles two, three, and four, covering part of Callender's case,* and was followed on the same day by Charles Lee, who succeeded in breaking down Randolph's interpolated articles five and six.† Luther Martin spoke next (February 23), restating the Constitutional arguments of Hopkinson, tearing to pieces articles two to six in order and gleefully expounding the law of Maryland and Virginia to Randolph.‡ On the 25th Harper concluded the argument for the defence by breaking down the seventh and eighth articles.§ Harper went beyond his associates in narrowing the field of impeachment when he maintained that impeachment was a criminal prosecution which must be founded on some wilful violation of a known law of the land and cited the constitutions of Pennsylvania, Delaware, Maryland, Virginia, North Carolina and Georgia to prove that such was the meaning attached to it.¶

On the manager's side all was perplexity, doubt and confusion. They put forth their best pleaders, and they needed all their strength. In his speech, February 26, Nicholson disavowed the idea that impeachment was a mere inquest on views.¶ This

impeachment, he said, was a criminal prosecution intended not only to remove, but to banish the offender. On the other hand, he claimed that if judges held office during good behavior and could be removed only by impeachment, then the Constitution must have intended that any act of misbehavior must be considered a misdemeanor. He showed how absurd it would be to construe the Constitution in a legal sense, but his argument evidently strained the language of the Constitution and disregarded the law. George W. Campbell took the ground that the term misdemeanor as used in the Constitution did not imply criminality. "Impeachment," said he, "according to the meaning of the Constitution, may fairly be construed a kind of inquest into the conduct of an officer merely as it regards his office. * * * It is more in the nature of a civil investigation than of a criminal prosecution." Here, then, were two directly contradictory statements by leaders of the impeachment, but as if there were not confusion enough, Rodney arose (February 26) and, evidently dissatisfied with Nicholson's theory (that impeachment was limited to treason, bribery, or other high crimes and misdemeanors), insisted that the Constitution put no limit on impeachment. He contended that the judges held office during good behavior, and that the minute a judge should misbehave, his office became forfeited. To ascertain the effect "officially, or

* *Annals*, pp. 394-413; Benton, pp. 244-248.

† *Annals*, pp. 413-429; Benton, pp. 248-250.

‡ *Annals*, pp. 429-502; Benton, pp. 250-258.

§ *Annals*, pp. 502-559; Benton, pp. 258-261.

¶ Adams, *United States*, vol. ii., pp. 230-232; McMaster, vol. iii., pp. 179-180.

¶ For his speech see *Annals*, pp. 559-582; Benton, pp. 261-267.



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rather judicially," the Constitution had provided impeachment, and the authority of the Senate was therefore coëxtensive with the complaint. He undertook to show that Chase had been guilty of crimes and misdemeanors in the technical sense of the term, but he succeeded only in creating more confusion regarding the theory of impeachment.*

There was then but one chance remaining to clear up the prosecution's idea of impeachment, and that task devolved upon Randolph. But Randolph was an invalid, excitable, nervous, irritable, and uncontrollable. When he appeared in the box, February 27, 1805, he was unprepared and his speech betrayed haste and insufficient study of the law and facts.† It was incoherent, illogical, full of declamatory claptrap such as is usually employed upon the stump; he not only made long pauses for recollection, but continually complained of having lost his notes, of his weakness, want of ability, and physical as well as moral incompetence. Of law he was totally ignorant, and what logic was he knew not. He undertook to answer the argument of Chase's counsel merely by calling it a monstrous pretension, a miserable quibble, and almost too absurd for reply; but he advanced no theory of his own, nor did he support the opinions of his

colleagues. After a number of arguments which were in no sense answers, he said he would no longer worry the court by combating the claim of the defence regarding the nature of impeachment. His closing speech was full of vituperation and misstatements of fact and law, and was chiefly remarkable for his strange and almost irrational behavior. His violence of manner and his high shrill voice had long been familiar in Washington, but never before had he indulged in such an eccentric outburst. After "much distortion of face and contortion of body, tears, groans and sobs," he broke down in the middle of his self-appointed task from sheer exhaustion, and congratulated the Senate that this was "the last day of my sufferings and of yours."

To such a trial there could be but one end, and that was defeat, but even Chase and his counsel had not hoped for such a crushing defeat as was now administered to the impeachers. On March 1 Burr directed the secretary to read the first article of impeachment and announced that the question would be put to each member on each article separately. The secretary then proceeded to call the roll and record the vote on article 1, which beside being the first in order, was the most important, since it was on this article that Randolph had founded the impeachment. If Chase

* For his speech see *Annals*, pp. 583-641; Benton, pp. 267-274.

† See *Annals*, pp. 641-662; Benton, pp. 274-281.

* *Diary of J. Q. Adams*, vol. i., p. 359 (February 27, 1805); *Adams, United States*, vol. ii., pp. 236-237; *McMaster*, vol. iii., pp. 180-181.

could not be convicted on this article, there was no hope of convicting him on any of the others. When the last name had been called only 16 had voted guilty while 18 had voted not guilty.* On the second article the acquittal was still more emphatic, 10 voting guilty while 24 voted not guilty. On the third and fourth articles the numbers on the first article were exactly reversed, 18 voting guilty while 16 voted not guilty. On the fifth, Chase was unanimously acquitted. Only four senators could be found to condemn him on the sixth and on the seventh the vote was the same as that on the second—10 guilty and 24 not guilty. One chance of conviction remained, the eighth article, which covered the judge's charge to the grand jury at Baltimore in 1803. There lay the true cause of impeachment, but this charge had been the one least pressed and least defended. In its support the impeachers brought out their whole strength. Giles, Jackson, Samuel Smith, and Stone united in pronouncing the judge guilty, but on this article only 19 members could be induced to sustain impeachment.† This was the greatest vote the managers obtained.‡ The result was, therefore, an acquittal of Chase.

Three days after this Jefferson was

again inaugurated President of the United States. The Presidential election of 1804 had been held under a somewhat different arrangement, as the Twelfth Amendment to the Constitution had become law. Up to this time each elector voted for two men, without designating which he desired to be President or Vice-President, the offices falling to the ones who received the highest and next highest number of votes. On the very day that the first session of the Eighth Congress convened (October 17, 1803) the House resolved that such a scene as was enacted in 1800 should not recur. Accordingly an amendment to the Constitution was proposed to change the method of voting so that the wishes of each elector might be known.* In the debate in the House little was said regarding the merits of the amendment itself, the debate centering on State rights,—with the Federalists changing sides and becoming defenders of State rights and strict construction, and the Republicans advocating a consolidated national government.† On October 28, when the arguments were finished, a vote was taken, and the amendment was adopted by a vote of 88 to 31.‡

* *Annals of Congress*, 8th Congress, 1st session, p. 372. For the text of this amendment see Appendix II. at the end of Chapter VI., Third Period, vol. iii., pp. 504-505.

† For the debate in the House see *Annals*, pp. 374-377, 380-381, 383, 420-431, 490-497, 515-546. For a résumé of the debates see McMaster, vol. iii., pp. 184-186.

‡ For the speeches of Uriah Tracy and John Taylor, December 2, 1803, respecting this amend-

* *Annals*, p. 665; Benton, p. 282.

† *Annals*, pp. 666-668; Benton pp. 282-283.

‡ Adams, *John Randolph*, pp. 150-151; McMaster, vol. iii., p. 181; Adams, *United States*, vol. ii. pp. 238-239; Schouler, *United States*, vol. ii., p. 87.

The resolution was then sent to the Senate; but that body refused to consider it, as it had adopted a resolution of its own.* On December 5, 1803, the Senate resolution was sent to the House, where for three days it was subjected to a series of sharp attacks on the part of the Federalists. The Republicans were determined to pass it, and did, in spite of the attempt of the Federalists to mutilate it by abolishing the place of Vice-President, by changing the language of several of its phrases, and by striking out the provision that the Vice-President should act as President, when—in case the election devolved on that body—the House should fail to exercise it before the 4th day of the following March.† In spite of all opposition, however, the amendment was passed December 8, 1803, by a vote of 83 to 42,‡ and sent to the States for ratification.¶ The promptness with which the States ratified the amendment surpassed all expectations. By March of 1804, ten States had ratified it, and three more did so before August. Only Massachusetts, Connecticut, and Delaware withheld assent to the change, these States de-

claring the amendment unnecessary, impolitic and unconstitutional. In New Hampshire the Legislature passed a resolution favoring the ratification, but the governor vetoed it. His veto was of no avail, however, and on September 25 the Secretary of State formally announced that the amendment had been duly adopted and ratified.*

As soon as the amendment had been dispatched, the Republicans prepared for the election which they hoped would take place under it. On February 25, 1804, the Republican members of Congress met in caucus at Washington and renominated Thomas Jefferson for President. George Clinton, Governor of New York, an ardent Republican, was nominated for the Vice-Presidency.† The Federalists made no formal nominations, but

* McMaster, vol. iii., p. 187.

† Morse, *Thomas Jefferson*, pp. 268-269. Jefferson's original opinion had been that the President should serve for one term of seven years and thereafter be ineligible, but he had "since become sensible that seven years is too long to be removable" and that "the service for eight years, with a power of removal at the end of the first four, comes nearer to my principle as corrected by experience." In accepting his nomination, he said: "I sincerely regret that the unbounded calumnies of the federal party have obliged me to throw myself on the verdict of my country for trial, my great desire having been to retire, at the end of the present term, to a life of tranquillity; and it was my decided purpose when I entered into office. They force my continuance. If we can keep the vessel of state steadily in her course for another four years, my earthly purposes will be accomplished, and I shall be free to enjoy, as you are doing, my family, my farm, and my books."—Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 297-298, 339. See also Schouler, *United States*, vol. ii., p. 67.

ment, see Williston, *Eloquence of the United States*, vol. ii., pp. 320-363. See also Benton, *Abridgment of Debates*, vol. iii., pp. 30-37, 57-60.

* For text see *Annals of Congress*, 8th Congress, 1st session, pp. 16-17; Benton, *Abridgment of Debates*, vol. iii., p. 6. For the debate see *Annals*, pp. 19-26, 81-210; Benton, pp. 7-8, 21-37.

† McMaster, vol. iii., pp. 186-187.

‡ For the debate see *Annals*, pp. 646-776.

¶ Stanwood, *History of Presidential Elections*, pp. 45-48.

agreed to support Charles Cotesworth Pinckney and Rufus King.*

Very little excitement prevailed at the elections in the fall, save in the New England States, where the contest between the two parties was exceedingly bitter and close. The very closeness of the contest drove each party to commit acts both shameful and unjustifiable. At that time Massachusetts was entitled to nineteen Presidential electors, of whom two under the old law were to be chosen outright by the General Court and the other seventeen by the General Court from lists of candidates submitted by the people of the seventeen Congressional districts. The new law provided that "the inhabitants of the towns and plantations qualified to vote for representatives, are to meet in town meeting on Monday, the fifth of November, and give in their votes for 19 electors of President and Vice-President, whose names shall be on one ticket, and such ticket shall contain the name of at least one inhabitant of each district which sends a representative to Congress under the law of March 10, 1802." The purpose of this bill was apparent. Never before had the Republicans been so numerous in Massachusetts. Under the old law it was certain that many districts would submit the names of Republican electors and, therefore, the electoral vote of Massa-

chusetts for President would be divided for the first time. To prevent this, the attempt to change the law was made; for, inasmuch as the majority of freemen were believed to be Federalists and as each elector was to be voted for in every town, it would be possible to choose Federalist electors in Republican districts by the aid of Federalist majorities in other places. In spite of every effort of the Republicans to defeat it, the bill passed the House by a vote of 125 to 106. Nevertheless the law did the Federalists little good, for when election day came the Republicans swept the State, elected their candidate for the governorship by nearly 4,000 majority, and secured all the Presidential electors.*

While the Federalists were resorting to such tactics to win the election in Massachusetts, the Republicans were making still more desperate efforts to win Connecticut. On May 11, 1804, at a gathering of the Republicans at Hartford, Abraham Bishop delivered an oration in which he stated that Connecticut had no constitution. When Connecticut became independent of England the old charter granted the colony by Charles II. became null and void; but, instead of meeting in convention to form a constitution, the General Assembly had passed an act that the government provided by the charter should be

* Schouler, *United States*, vol. ii., p. 68; Stanwood, *History of Presidential Elections*, p. 49.

* McMaster, vol. iii., pp. 188-189.

the civil constitution of the State. The people of Connecticut, therefore, still lived under the old Crown laws, suffered from the same old restrictions on the right to vote, and the same old abuses which had been inflicted on them while subjects of the Crown. Though the council consisted of twelve men, seven formed a majority, and thus the State was ruled by the whims of seven men in whom were vested all legislative, executive, and judicial powers and without whose leave no law could pass and no law could be repealed. This was not an instrument to which freemen ought to submit. Under it none could vote who did not have a freehold estate worth \$7 a year or a personal estate on the tax list of \$134.*

Accordingly in June a suffrage bill was introduced in the General Assembly providing that every free white man of legal age and good character who paid taxes and who served in the militia for one year, should be given the right to take the freeman's oath. This bill was defeated and the Republicans began to agitate for a constitutional convention. A committee was formed, with the district-attorney as chairman, and late in August delegates from 97 towns in Connecticut convened at New Haven and drafted an address to the people. The following general principles were suggested

as the basis for a Constitution: Universal suffrage; separation of the legislative, executive, and judicial departments; no taxation without representation; free exercise of all religions; independent churches; and the district system of choosing representatives in Congress. The Federalist newspapers immediately fell upon this address and roundly abused the suggestions of the convention. The pulpit took up the hue and cry, Sunday after Sunday warning the people to beware of the horrors of universal suffrage. This had its effect and Connecticut alone of the five New England States was saved to Federalism. A few weeks later the Legislature had the meanness to revoke the commissions of the men who presided over the New Haven conference.*

Most of the States were so overwhelmingly Republican that to arouse opposition was impossible, and the only excitement was in those States where the people chose the electors. Of these States, Massachusetts alone was doubtful, and there the struggle was sharp and exciting. The Federalists controlled the clergy and press and renewed the charges which for the past four years had been circulating in the Federalist papers of the land. Nevertheless the Federalist party was deserted by thousands, State after State being carried by the Republicans for Jefferson. The defeat of the Federalists was crushing.

* McMaster, vol. iii., pp. 189-191.

* McMaster, vol. iii., pp. 191-193.

In 1800 they had carried all the New England States, New Jersey and Delaware, and had secured half the votes of Pennsylvania, Maryland, and North Carolina; but in 1804 New Hampshire, Vermont, Massachusetts,

Rhode Island, New Jersey, Pennsylvania, and North Carolina went Republican and in Maryland three votes were lost. From ten States the Federalists had fallen to three. The electoral votes stood as follows:*

Number of electoral votes	STATES	PRESIDENT		VICE-PRESIDENT	
		Thomas Jefferson, Virginia	C. C. Pinckney, South Carolina	George Clinton, New York	Rufus King, New York
7	New Hampshire.....	7	.....	7	.....
19	Massachusetts.....	19	.....	19	.....
4	Rhode Island.....	4	.....	4	.....
9	Connecticut.....	.....	9	.....	9
6	Vermont.....	6	.....	6	.....
19	New York.....	19	.....	19	.....
8	New Jersey.....	8	.....	8	.....
20	Pennsylvania.....	20	.....	20	.....
3	Delaware.....	.....	3	.....	3
11	Maryland.....	9	2	9	2
24	Virginia.....	24	.....	24	.....
14	North Carolina.....	14	.....	14	.....
10	South Carolina.....	10	.....	10	.....
6	Georgia.....	6	.....	6	.....
5	Tennessee.....	5	.....	5	.....
8	Kentucky.....	8	.....	8	.....
3	Ohio.....	3	.....	3	.....
176	Total.....	162	14	162	14

Jefferson was then at the height of his greatness and power, and when he was inaugurated for the second time on March 4, 1805, he reviewed with some pride the events of the past four years. In his second inaugural speech he said that he had "endeavored to cultivate the friendship of all nations, and especially those with which we have the most important relations." He entered into a vindication of his administration; told how he had suppressed unnecessary offices, reduced expenses, and swept away the odious system of internal taxes.* He congratulated the country upon the hopeful prospects before them for the outlook was

indeed bright; but before his second term had come to a close the shadow of war hung over the country and the prospect was very different.† In the interval between the inauguration and the meeting of Congress, he sought relief from public cares and toils at his home at Monticello. In October he returned to Washington and, as Tucker says:

"He never felt so forcibly the transition from rural quiet, and the pure pleasures of domestic intercourse, to the feverish anxieties of the statesman, as on the present occasion. His course, during the first four years that he had held the helm, had been singularly prosperous; and if he

* Schouler, *United States*, vol. ii., p. 519; Stanwood, *History of Presidential Elections*, p. 50; *Annals of Congress*, 8th Congress, 2d session, p. 56; Benton, *Abridgement*, vol. iii., p. 168.

† Fords ed. of *Jefferson's Writings*, vol. viii., pp. 341-348.

* Richardson, *Messages and Papers*, vol. i., pp. 378-382.

had not always met with a smooth sea, he had been able to continue his course over it by the strong gale of his popularity; but from this time he met with adverse winds and opposing currents which greatly impaired the comfort of the voyage, and in some degree its success.”*

But before we consider the events of his second administration, let us glance at events which had occurred in other parts of the country and also in other parts of the world.

CHAPTER VII.

1804.

THE NORTHERN CONFEDERACY: DEATH OF HAMILTON.

Northern jealousy of Southern influence — Massachusetts' recommendation of a reapportionment of taxation and representation — The Northern Federalists' plan of a confederacy — Attempts to gain adherents to the scheme — Attacks on Burr — His candidacy for the governorship of New York — The Federalist efforts to attach him to their cause — Hamilton's opposition to Burr and to his schemes of disunion — Burr's defeat — Hamilton's remarks regarding Burr's character a pretext for a duel — Burr's challenge and Hamilton's acceptance — The latter's strange reasoning — His death and funeral — Burr's indictment and flight.

According to Mr. Tucker, Jefferson's administration was now at “the meridian of its popularity and an unexampled quiet reigned over the land. The Federal party seemed to have become virtually extinct, and the Republicans carried everything before them. This pacific state of things, however, was in a large measure delusive, and even then causes were at work which greatly agitated the last years of his administration both in its domestic and foreign relations.”

The New England States were becoming jealous of the power wielded by the Southern States in the affairs of the nation, and the acquisition of Louisiana did not tend to allay the fears that the country would soon be under Southern domination. The Federalists asserted that Virginia influence, politics, and men ruled the

Nation, and that the power, influence, and prosperity of New England were gone forever. The various suggestions of secession offered by New England politicians made no impression on the great mass of New Englanders, who, with crops plentiful, money abundant, taxes light, labor highly paid, and general conditions in keeping, were prosperous and contented. In such soil the seeds of secession did not sink deep, and amending the Constitution regarding representation was the next best thing to do. The New Englanders claimed that the preponderance of Southerners in Congress was due to the fact that three-fifths of the negroes were represented. It was estimated that there were 848,000 negroes in the South, of whom three-fifths were to be represented on the basis of one for each 33,000. This would give them 15 representatives

* Tucker, *Life of Jefferson*, vol. ii., p. 184.

and enable the South to dominate national affairs. As a vast strip of territory had been annexed, a large part of which was contiguous to the South, and as this would soon be organized into States sending representatives to Congress favorable to the South, her influence would presently become still more predominant. Somewhat to equalize matters, a motion was introduced in the Massachusetts General Court in June of 1804 providing that representation and direct taxes should be apportioned among the States according to the free white citizens. It was maintained that, unless this were done, the union of the States could no longer exist.* Though the Republicans declared this unnecessary, the Ely amendment, as it was called, passed the House and was laid before the United States Senate in December of 1804, there to be forgotten. Copies of the Massachusetts resolutions were sent to the various States for consideration, but the answers were almost unanimously against it; Delaware and Connecticut postponed consideration, but Virginia, Maryland, South Carolina, Ohio, Pennsylvania, Kentucky, Vermont, Rhode Island, New Hampshire, New York, New Jersey, North Carolina, Georgia and Tennessee united in the sentiment that such a measure would be inexpedient, would scatter seeds of disunion, and would produce anarchy.†

This crushing condemnation was not calculated to dull the wrath of the Federalist leaders in Congress. For months past they had been discussing a plan of secession, and the defeat made them the more determined, especially as they were members of the very body which, by adding new slave States, sending Republican representatives to Congress, and electing Republican Senators, was gradually turning over the whole government to the South. Among the Federalists who were supposed to favor drastic measures were Timothy Pickering, Sedgwick, Roger Griswold, Uriah Tracy, William Plumer, Samuel Hunt, of New Hampshire, Tapping Reeve and Calvin Goddard, of Connecticut, and, later, Aaron Burr.* In January of 1804 the despair of the Federalists drove them to conspiracy, Pickering, Tracy, Griswold, and Plumer organizing a movement in their respective States for the dissolution of the Union. They wrote to their most influential constituents and sketched a plan of action. Writing to George Cabot January 29,† Pickering said that the separation had become necessary, but the question was, when and how was it to be effected?

"If federalism is crumbling away in New England, there is no time to be lost, lest it should be overwhelmed and become unable to attempt its

* Adams, *New England Federalism*, p. 106. Schouler, however, says that Tracy did not favor the separation scheme (*United States*, vol. ii., p. 69, note).

† Lodge, *Life and Letters of George Cabot*, p. 337.

* McMaster, vol. iii., pp. 42-45.

† *Ibid.*, vol. iii., pp. 45-47.

own relief; its last refuge is New England, and immediate exertion perhaps its only hope. It must begin in Massachusetts. The proposition would be welcomed in Connecticut; and could we doubt of New Hampshire? But New York must be associated; and how is her concurrence to be obtained? She must be made the center of the confederacy. Vermont and New Jersey would follow of course, and Rhode Island of necessity. Who can be consulted, and who will take the lead? The legislatures of Massachusetts and Connecticut meet in May, and of New Hampshire in the same month, or June. The subject has engaged the contemplation of many. The Connecticut gentlemen have seriously meditated upon it. * * * Tracy has written to several of his most distinguished friends in Connecticut and may soon receive their answers. R. Griswold, examining the finances, has found that the States above mentioned, to be embraced by the Northern Confederacy, now pay as much or more of the public revenue as would discharge their share of the public debts due those States and abroad, leaving out the millions given for Louisiana."

Writing to Oliver Wolcott on March 11, 1804, Griswold speaks in similar language:

"The project which we had formed was to induce, if possible, the legislatures of the three New England States who remain Federal to commence measures which should call for a reunion of the Northern States. The extent of those measures, and the rapidity with which they shall be followed up, must be governed by circumstances. The magnitude and jealousy of Massachusetts would render it necessary that the operation should be commenced there. If any hope can be created that New York will ultimately support the plan, it may perhaps be supported."*

Pickering knew that the Federalist majority in Massachusetts was none too large, and his view was substantiated four months later by the result of the election, when the Federalists received 30,000 votes against 24,000 for the Republicans, while in the

Legislature Harrison Gray Otis was chosen speaker by only 129 votes to 103. Pickering knew also that his colleague in the United States Senate, John Quincy Adams, was watching his movements with increasing ill-will and that, upon the first suggestion of disunion, he and the moderate Federalists would attack the Essex Junto with the bitterness of long suppressed animosity. Pickering naturally concealed his doings from Adams, but Tracy was not so cautious. From the time that Adams learned Pickering's secret, the two Massachusetts Senators drew farther and farther apart. The Essex Junto, to which Pickering appealed for support, read his letter with astonishment. They agreed that the scheme was impracticable, George Cabot writing to Pickering on February 14, 1804, as follows:

"All the evils you describe and many more, are to be apprehended; but I greatly fear that a separation would be no remedy, because the source of them is in the political theories of our country and in ourselves. A separation at some period not very remote may probably take place—the first impression of it is even now favorably received by many; but I cannot flatter myself with the expectation of essential good to proceed from it while we retain maxims and principles which all experience, and I may add reason too, pronounce to be impracticable and absurd. Even in New England, where there is among the body of the people more wisdom and virtue than in any other part of the United States, we are full of errors which no reasoning could eradicate if there were a Lyeurgus in every village. We are democratic altogether; and I hold democracy in its natural operation to be the government of the worst.

"There is no energy in the Federal party and there can be none manifested without great hazard of losing the State government. Some of our best men in high stations are kept in office because they forbear to exert any influence, and

* Hamilton, *History of the Republic*, vol. vii., p. 781; Adams, *New England Federalism*, p. 354.

not because they possess right principles. They are permitted to have power if they will not use it. * * * I incline to the opinion that the essential alterations which may in future be made to amend our form of government will be the consequences only of great suffering or the immediate effects of violations. If we should be made to feel a very great calamity from the abuse of power by the National Administration, we might do almost anything; but it would be idle to talk to the deaf, to warn the people of distant evils. By this time you will suppose I am willing to do nothing but submit to fate. I would not be so understood. I am convinced we cannot do what is wished; but we can do much, if we work with Nature (or the course of things), and not against her. A separation is now impracticable, because we do not feel the necessity or utility of it. The same separation then will be unavoidable when our loyalty to the Union is generally perceived to be the instrument of debasement and impoverishment. If it is prematurely attempted, those few only will promote it who discern what is hidden from the multitude.”*

Cabot's argument did not shake Pickering's resolution, but other replies indicated that the people were not ready for the separation — and would not be until some startling event had happened or the South had perpetrated some act inimical to the interests of the Nation which would arouse and unite the Northern people against the Administration. Higginson also wrote to Pickering that a separation was impracticable. He said in effect that the vast majority of the members of the Federalist party had not sense enough to know that they were suffering from terrible evils. “It is impossible to alarm, much less to convince, a large portion of the Federalist party here of their

danger. A small part only of those called Federal * * * are sound in their opinions, and willing to look into their real situation. Many even of our own party have as much yet to unlearn as to learn. They have yet much of the democratic taint about them.”* Plumer found a great majority of the New Hampshire Federalists decidedly opposed to the plan, Griswold summing up the result in a letter to Oliver Wolcott, as follows:

“We have endeavored during this session to rouse our friends in New England to make some bold exertions in that quarter. They generally tell us that they are sensible of the danger, that the Northern States must unite; but they think the time has not yet arrived. Prudence is undoubtedly necessary; but when it degenerates into procrastination it becomes fatal. Whilst we are waiting for the time to arrive in New England, it is certain that democracy is making daily inroads upon us, and our means of resistance are lessening every day. Yet it appears impossible to induce our friends to make any decisive exertions. Under these circumstances I have been induced to look to New York.”†

The secessionists would not heed the good advice, but were urged on by an event which occurred at this juncture. Aaron Burr had been nominated for the governorship of New York. From the very time he became Vice-President, Burr had practically been an outcast from his party. No patronage had been meted out to him and three times he had been foully lampooned in long and tiresome pamphlets written by James Cheetham, entitled, *A Narrative of the Suppression* [of Wood's *History of the*

* Lodge, *Life and Letters of George Cabot*, p. 341.

* Adams, *New England Federalism*, p. 361.

† Adams, *United States*, vol. ii., pp. 165-169.

Last Administration], *A View of Aaron Burr's Political Conduct*, and *Nine Letters on the Subject of Aaron Burr's Political Defection*.* On November 16, 1803, the *Albany Register* followed the lead of Cheetham, and soon nearly the whole Republican press of New York followed the *Register*: Burr remained silent until near the close of 1803 when an anonymous pamphlet entitled, *An Examination of the Various Charges against Aaron Burr* appeared over the signature of Aristides. The bitterness of this pamphlet and the ferocity of the assault on the personal and political characters of the Republican leaders made the invectives of Hamilton and Cheetham look somewhat tame. But as the pamphlet showed more literary ability than Burr claimed, it was seen that while the information came directly from him, he had not written the pamphlet himself. Not until long afterward was Aristides acknowledged to be Burr's most intimate friend, William Peter Van Ness.†

Such a war of words could not long continue without a resort to the pistol. Cheetham's pen stirred up the anger of men who resented charge with countercharge; and the United States marshal, John Swartwout, the only friend of Burr then in office, declared that Clinton's opposition to Burr was

based upon unworthy and selfish motives. Clinton promptly answered with a passionate outburst, pronouncing Swartwout "a liar, a scoundrel and a villian." Swartwout demanded a retraction, but Clinton refused unless Swartwout first withdrew his offensive words. This Swartwout in turn refused to do, instead challenging Clinton. Calling on his friend, Richard Riker, Clinton met Swartwout the next day at Weehawken and exchanged three shots without effect. By the fourth Clinton hit Swartwout's left leg below the knee, but the latter still insisted upon an apology. Clinton refused, but offered to shake hands and drop the matter. This did not satisfy Swartwout and a fifth shot was exchanged, Clinton's ball striking Swartwout this time in the same leg just above the ankle. Swartwout, perfectly composed, demanded further satisfaction, but Clinton, tired of shooting at his antagonist, declined to shoot again and left the field.*

Another quarrel grew out of this, in which John Swartwout's younger brother, Robert, fought Riker, wounding him severely. William Coleman, of the *Evening Post*, then became entangled with Cheetham, launching some spiey epigrams against Cheetham. This resulted in a challenge, but Cheetham made haste to adjust matters. Harbor-Master Thompson then took up the quarrel and was

* See Parton, *Life and Times of Aaron Burr*, p. 318 *et seq.*; Alexander, *Political History of New York*, vol. i., pp. 122-123.

† Alexander, *Political History of New York*, vol. i., pp. 123-126.

* Alexander, vol. i., pp. 126-128; Adams, *United States*, vol. i., p. 332; *Harper's Magazine*, vol. 1., p. 565.

promptly challenged by Coleman. The pair met at the foot of what is now Twenty-first Street, then the outskirts of the city, and after two ineffectual shots had been fired, the darkness forced the combatants to draw close together, when the next shot laid Thompson low, mortally wounded.*

Burr then announced that he meant to be a candidate for the governorship of New York at the April elections in 1804. The Clintons tried to secure Jefferson's aid to prevent the election of Burr, but Jefferson declined to interfere.† On January 26, 1804, Burr likewise tried to enlist the aid of Jefferson, but Jefferson declined again.

Toward the middle of February, Burr's friends in the New York Legislature announced that they would hold a caucus on February 18 to nominate him as candidate for governor. Such Federalists as happened to be in Albany called a meeting to discuss the situation. The conference took place in Lewis's tavern and was intended to be secret, but two friends of Burr's hidden away in a room joining that in which the meeting was held, overheard the proceedings and made them public. The purpose of the meeting was to decide whether the Federal party should support Burr or nominate a candidate of its own.

Many were well disposed toward Burr, but Hamilton, after reading a long paper severely criticising the political character of the Vice-President,* persuaded the majority of those present to nominate Chancellor John Lansing, who declined, when Morgan Lewis was nominated. This so displeased Hamilton that thenceforth he took but little interest in the election.†

True to their promise, the discontented Republicans nominated Burr on February 18. His nomination was a source of delight to Pickering and his friends, who believed that, if elected to the governorship of New York, Burr would no longer be dominated by the Republicans of the South.‡ They could then lay their

* In the sixth paragraph of this paper Hamilton said: "These causes are leading to an opinion that a dismemberment of the Union is expedient. It would probably suit Mr. Burr's views to promote this result, to be the chief of the northern portion; and, placed at the head of the state of New York, no man would be more likely to succeed."—J. C. Hamilton, *History of the Republic*, vol. vii., p. 771.

† Parton, *Life and Times of Aaron Burr*, p. 331 *et seq.*; Alexander, *Political History of New York*, vol. i., pp. 129-136; Lamb, *City of New York*, vol. ii., p. 489; McMaster, vol. iii., pp. 59-60; Hamilton's *Works*, vol. vii., p. 851; Gordy, *Political History*, vol. i., pp. 454-455.

‡. After Burr was nominated, the *Morning Chronicle* said: "They offer Burr as a man who must be supported, or the weight of the Northern states in the scale of the Union is irrevocably lost. If the Southern, and particularly the Virginia, interests are allowed to destroy this man, we may give up all hope of ever furnishing a president to the United States. The influence of the Northern states in the affairs of the Union and their future prosperity imperiously demand, therefore, that we sustain Aaron Burr from sinking in

* Alexander, *Political History of New York*, vol. i., p. 128.

† Ford's ed. of *Jefferson's Writings*, vol. viii., p. 282.

plans before him, offer him the leadership of the party, make him chief of the new confederacy, and thus successfully consummate their plans — possibly adding New York and New Jersey to the New England States. The plan of the men who were plotting to overturn their governments was to effect Burr's election by the aid of Federalist votes. On March 11, 1804, Griswold wrote: "As unpleasant as the thing may be, * * * I have been induced to consider a union in the election of Colonel Burr as the only hope which at this time presents itself of rallying in defence of the Northern States."* On April 4 Griswold had an interview with Burr at New York, but Burr would state only that "he must go on democratically to obtain the government; that if he succeeded he should administer it in a way that would be satisfactory to the Federalists."† The Federalist had no desire to see Burr elevated to the Presidency. The real importance of the whole project was that the leading Republicans in New England were Burrites and Burr was quite popular among the masses of the New England Federalists. They realized that without his aid they had little chance of success. To remain

inactive was certain ruin, while as supporters of Burr they were sure to receive some assistance in the furtherance of their schemes. And if Burr were elected with the aid of the Federalists, a union with the Burr Republicans was perhaps possible. If it could be effected, the essential point had been attained.* Encouraged by the prospect, Pickering and Griswold worked energetically for Burr's election. Writing to Rufus King on March 4, Griswold said:

"The Federalists here in general anxiously desire the election of Mr. Burr to the chair of New York, for they despair of a present ascendancy of the Federalist party. Mr. Burr alone, we think, can break your democratic phalanx, and we anticipate much good from his success. Were New York detached, as under his administration it would be, from the Virginia influence, the whole Union would be benefited. Jefferson would then be forced to observe some caution and forbearance in his measures. And if a separation should be deemed proper, the five New England States, New York, and New Jersey would naturally be united."†

But King disapproved disunion. Writing to Adams he said:

"Colonel Pickering has been talking to me about a project they have for a separation of the States and a Northern confederacy, and he has also been this day talking with General Hamilton. I disapprove entirely of the project, and so, I am happy to tell you, does General Hamilton."‡

The struggle between Hamilton and the conspirators lasted until the eve of the election — secret, stifled, mysterious; the intrigue of men afraid to avow their aims and driven rather by

the fury of this contest. We can only do this by making him our governor."—Quoted in J. C. Hamilton, *History of the Republic*, vol. vii., p. 777.

*Adams, *New England Federalism*, p. 355.

†Hamilton, *History of the Republic*, vol. vii., p. 787. See also Schouler, *United States*, vol. ii., p. 70.

* Von Holst, *Constitutional and Political History*, vol. i., p. 195.

†Lodge, *Life and Letters of Cabot*, p. 447.

‡Adams, *New England Federalism*, p. 148.

their own passions than guided by the lofty and unselfish motives which ought to inspire those whom George Cabot emphatically called "the best." The campaign was marked by savageness, vindictiveness, scurrility, and blood. Never had party spirit run higher. Old friends became estranged, social intercourse was broken off, partnerships were dissolved by quarrels over the merits of the candidates, and the course of business was seriously affected. Lewis was supported by the majority of the Democratic party; Burr, by a section of that party (consisting chiefly of the younger and more ardent and less scrupulous) and by many of the Federalists. Thus both parties were split, for Hamilton and those who looked up to him as their political leader opposed Burr with the utmost ardor, though he did not speak against or openly oppose Lewis. Indeed, how could he, having continuously, in private and public, attacked Burr's character, describing him as bold, intriguing, moved by unprincipled ambition, and deeply in debt?

Moreover, Hamilton had no sympathy with the disunionist plots of the New England Federalists, though he was opposed to disunion on principle—not because, like Cabot, he thought the time had not yet come for it. In a letter to Theodore Sedgwick, July 10, he said: "Dismemberment of our empire will be a clear sacrifice of great positive advantages, without any counterbalancing good; adminis-

tering no relief to our real disease, which is democracy, the poison of which, by a subdivision, will only be the more concentrated in each part, and consequently the more virulent."*

Such references to public men are frequent, and it is surprising that none of these clear and explicit statements ever came to Burr's notice. The most atrocious libels were daily circulated by the press, and every means that partisan animosity could devise was employed to destroy the credit of the candidates. Cheetham pounded Burr harder than ever, accusing him of seduction and of dancing with a buxom wench at a "nigger ball" given at Richmond Hill by one of his colored servants. The *American Citizen*, in one of its issues, stated in large capitals that Jefferson had declared that Burr's party was not the real democracy.† When at last the election took place on April 25, Burr was defeated. Although he was supported by all the Federalists and a few hundred voters in New York City (where his strength lay, giving him there a majority of 100 in a total vote of less than 3,000), he received only about 28,000 votes in the State against 35,000 for Lewis.‡ It was Burr's Waterloo. He had staked everything and lost. Disowned by his party, and distrusted by a large portion of the leading Federalists, he had

* Lodge's ed. of Hamilton's *Works*, vol. viii., p. 615.

† Alexander, *Political History of New York*, vol. i., pp. 137-138.

‡ Parton, *Life and Times of Aaron Burr*, p. 335.

no chance to recover his lost position so long as Hamilton blocked the way. Well knowing by whose instrumentality mainly his defeat had been accomplished, the only recourse was a fight; for if Burr were the man described by Hamilton, the two men, acknowledging the code, could not hope to move in the same political arena without a duel sooner or later.*

In the South the news of Burr's defeat was hailed with delight, for, had Burr succeeded to the governorship of New York, the deep laid scheme to sever the Union would have been promoted. The whole aristocracy of the Eastern States was at the bottom of it and even in New York the scheme had active partisans. Delaware was to have been the dividing line. To the New England leaders the defeat was disappointing, but a blow still heavier was to follow. As already implied, Lewis' success could be ascribed by Burr to but a single cause—the meddling of Hamilton. That Hamilton's doings were known to Burr can hardly be doubted. Burr was not a vindictive man, but this was the second time that Hamilton had stood in his way and villified his character, and Burr was determined that it be the last. He had no reason to suppose that Hamilton was deeply loved, for he knew that four-fifths of the Federalist party had adopted his own leadership when pitted against Hamilton's in the late election; he

knew, too, that Pickering, Griswold, and other leading Federalists had separated from Hamilton in the hope of making Burr himself the chief of a northern confederacy. Looking into the future and perceiving that his advancement depended on breaking somewhere through the line of his personal enemies and that Hamilton stood first in the path, Burr resolved to attempt to rid himself of Hamilton's opposition, if the attempt cost the life of either of them. He determined to call out Hamilton, using as a pretext a couple of letters which had been published on or before the election.*

After Burr was nominated, Hamilton took little care as to where, when, or how he expressed his feelings regarding him.† On February 16 he

* Adams, *United States*, vol. ii., pp. 185-186.

† Parton says: "At every step of Burr's political career, without a single exception, Hamilton, by open efforts, by secret intrigue, or by both, had utterly opposed and forbidden his advancement. He had injured him in the estimation of General Washington. He had prevented Mr. Adams from giving him a military appointment. His letters, for years, had abounded in denunciations of him, as severe and unqualified as the language of a powerful declaimer could convey. From Burr's own table he had carried away the unguarded sallies of the host for use against the political opponent. The most offensive epithets and phrases he had so habitually applied to Burr, that they had become familiar in the mouths of all the leading Federalists. * * * And, finally, he had just succeeded in frustrating Burr's keen desire for vindication at the people's hands; and, in doing so, had made it only too evident to all the leading politicians, that for the success of any plans of political advancement which Burr might in future form, it was, above all things else, essential that Hamilton's injurious tongue should be either silenced or bridled."—*Life and Times of Aaron Burr*, p. 339.

* Sumner, *Life of Alexander Hamilton*, p. 247; Lodge, *Alexander Hamilton*, p. 247 *et seq.*

dined at Albany with John Taylor and their conversation was overheard by Dr. Charles D. Cooper, who wrote an account of it. In this letter Cooper said that "General Hamilton and Judge Kent have declared, in substance, that they looked upon Mr. Burr to be a dangerous man, and one who ought not to be trusted with the reins of government."*

The letter was printed for political effect and was properly answered by Philip Schuyler, who assured the public that Hamilton was taking no part whatever in the contest. This, with other things, was put in the form of a hand-bill by the Republican committee and scattered over the State. On seeing this, Cooper said: "I could detail to you a still more despicable opinion which General Hamilton has expressed of Mr. Burr."†

On June 18 William P. Van Ness appeared in Hamilton's office bringing a message from Burr which enclosed the newspaper clippings containing Cooper's report of Hamilton's "despicable opinion of Burr's character." He said that this note had recently come to his knowledge and that Hamilton must perceive the necessity of a prompt and unqualified acknowledgment or denial of the use of any expressions which would warrant the assertions of Mr. Cooper.‡

Two days later Hamilton wrote what Burr considered an evasive answer, closing with two lines of defiance — "I trust on more reflection you will see the matter in the same light with me; if not, I can only regret the circumstances, and must abide the consequences."* This was not the kind of answer Hamilton should have sent to Burr, since Burr was merely seeking an occasion to quarrel with him. At first sight, no sufficient reason for accepting a challenge was shown by Hamilton's letter, which disavowed Cooper's report so far as Burr was warranted in claiming disavowal.†

* Hamilton, *History of the Republic*, vol. vii., p. 806; Lodge's ed. of *Hamilton's Works*, vol. viii., p. 618; Parton, *Life and Times of Aaron Burr*, p. 341.

† In one of his letters to Hamilton Burr defines his position as follows: "Political opposition can never absolve gentlemen from the necessity of a rigid adherence to the laws of honor, and the rules of decorum. I neither claim such privilege, nor indulge it in others. The common sense of mankind affixes to the epithet adopted by Dr. Cooper the idea of dishonor. It has been publicly applied to me, under the sanction of your name. The question is not whether he has understood the meaning of the word, or has used it according to syntax and with grammatical accuracy, but whether you have authorized this application, either directly, or by uttering expressions or opinions derogatory to my honor." In the paper drawn up for his seconds, he says: "Aaron Burr, far from conceiving that rivalry authorizes a latitude not otherwise justifiable, always feels great delicacy in such cases, and would think it meanness to speak of a rival, but in terms of respect; to do justice to his merits; to be silent of his foibles. Such has invariably been his conduct towards Jay, Adams and Hamilton, the only three who can be supposed to have stood in that relation to him.

"That he has too much reason to believe that in regard to Mr. Hamilton there has been no such reciprocity. For several years his name has been

* Todd, *The True Aaron Burr*, p. 26.

† Lamb, *City of New York*, vol. ii., p. 491; Adams, *United States*, vol. ii., pp. 177-178; McMaster, vol. iii., p. 52.

‡ Todd, *The True Aaron Burr*, pp. 26-27; Lodge's ed. of *Hamilton's Works*, vol. viii., p. 617.

Without impropriety, Hamilton might have declined to give satisfaction and it might even have been better had he said openly (which was true and well known) that he did look upon Burr as a dangerous and unscrupulous man unfitted to be trusted with the affairs of the State and unworthy of the confidence of the people. Burr quickly saw his advantage and immediately dispatched a curt and unceremonious note insisting upon a definite reply to his demand. Hamilton declined any further parley with Burr, and on June 25 Van Ness called upon Hamilton to deliver a formal challenge from Burr. Hamilton now attempted further negotiations through Nathaniel Pendleton, but in vain.* Some delay occurred because Hamilton wished to discharge certain

duties to his clients and also to arrange his affairs, for he seemed to have a premonition that the encounter would terminate fatally to himself. He prepared his will and wrote out his views as to this expected meeting, declaring himself as opposed to the shocking practice of duelling, yet strangely insisting that he must sacrifice his sacred principles of right and duty to meet Burr. In his farewell to his wife he said that he would have avoided the duel, if it had been possible "without sacrificing that which would have rendered me unworthy of your esteem."† Regarding his reasons for accepting the challenge, he said:

"My relative situation, as well in public as in private enforcing all the considerations which constitute what men of the world denominate honor impose on me, as I thought, has become a necessity not to decline the call. The ability to be in the future useful, whether in resisting mischief or in effecting the good, in these crises of our public affairs, which seem likely to happen, would probably be inseparable from a conformity with public prejudice in this particular."‡

lent to the support of base slanders. He has never had the generosity, the magnanimity, or the candor to contradict or disavow. Burr forbears to particularize, as it could only tend to produce new irritations, but having made great sacrifices for the sake of harmony, having exercised forbearance until it approaches humiliation, he has seen no effect produced by such conduct, but a repetition of injury.

"He is obliged to conclude that there is on the part of Mr. Hamilton a settled and implacable malevolence; that he will never cease in his conduct toward Burr, to violate those courtesies of life, and that hence he has no alternative but to announce these things to the world, which consistently with Mr. Burr's ideas of propriety, can be done in no way but that which he has adopted. He is incapable of revenge, still less is he capable of imitating the conduct of Mr. Hamilton by committing secret depredation on his fame and character. But these things must have an end."—Parton, *Life and Times of Aaron Burr*, pp. 342-343.

* Parton, *Life and Times of Aaron Burr*, p. 344 et seq.

Hamilton evidently thought that a refusal to fight would be the end of his political career.

In his preparations, Burr's thoughts seem to have centered upon his daughter, Theodosia. After directing her respecting the disposal of his papers, he enjoined her to burn all such letters, which if made public, might in-

* Hamilton's *Works*, vol. viii., p. 629.

† Hamilton, *History of the Republic*, vol. vii., pp. 816-819; Lodge's ed. of *Hamilton's Works*, vol. viii., p. 628; Sumner, *Life of Alexander Hamilton*, p. 249; Lodge, *Alexander Hamilton*, p. 250 et seq.; Parton, *Life and Times of Aaron Burr*, pp. 349-350.

jure any person, and especially those of his female correspondents. He concludes his letter as follows:

"I am indebted to you, my dearest Theodosia, for a very great portion of the happiness which I have enjoyed in this life. You have completely satisfied all that my heart and affections had hoped or even wished. With a little more perseverance, determination and industry, you will obtain all that my ambition or vanity had proudly imagined. Let your son have occasion to be proud that he had a mother."

He wrote a long letter also to her husband, saying:

"If it should be my lot to fall, yet I shall live in you and your son. I commit to you all that is most dear to me — my reputation and my daughter. Your talents and your attachment will be guardian of the one, your kindness and your generosity of the other. Let me entreat you to stimulate and aid Theodosia in the cultivation of her mind. It is indispensable to her happiness and essential to yours. * * * She will richly compensate your trouble."*

On Wednesday, July 11, the duelists met at Weehawken, on the Jersey shore opposite New York. The preliminaries being arranged, Burr and Hamilton were placed ten paces apart. Had Hamilton acted with the energy of conviction, he would have met Burr in his own spirit, but throughout the affair he showed the lack of will. He allowed himself to be drawn into the duel, but instead of attempting to kill Burr, he invited Burr to kill him. In his paper he declared his intention of throwing away his first fire.† There is much difference of opinion as to who fired the first shot, but that matters

little. Burr's shot entered his adversary's right side, and, mortally wounded, Hamilton fell heavily on his face.* Burr and his companion, Van Ness, immediately departed, while Dr. Hosack, Nathaniel Pendelton, and the boatmen bore Hamilton back to his home, where, after lingering in great pain for thirty-one hours, he died on the afternoon of July 12. When news of the duel reached New York, a notice was at once put up in the great room of the Tontine Coffee House, and when death was announced, the merchants met and urged the citizens to stop all business, to close their shops, and to attend the funeral in a body. The Common Council suspended the ordinance against the tolling of bells; every society and every association (including St. Andrew's, Tammany, the Marines, and the Mechanics) drew up resolutions of condolence. On Saturday Hamilton was buried with military honors by the Society of the Cincinnati, and in the funeral procession were the clergy of all denominations, the lieutenant-governor, the corporation of the State,

* Todd says there can be no doubt that Hamilton fired first and that his shot severed a twig over Burr's head. On the only occasion Burr ever revisited the spot he declared (as did his second, Van Ness) that Hamilton fired first. The sun was in Hamilton's eyes, which probably accounts for his poor aim. Burr said that "when he [Hamilton] stood up to fire, he caught my eye, and quailed under it; he looked like a convicted felon." See Todd, *The True Aaron Burr*, p. 32. Parton (*Life and Times of Aaron Burr*, p. 355) says that Hamilton involuntarily discharged his pistol after Burr's shot had hit him. Parton, however, contradicts this on p. 617.

* Parton, *Life and Times of Aaron Burr*, pp. 351-352.

† Lamb, *City of New York*, vol. ii., p. 493; Todd, *The True Aaron Burr*, p. 30.

the resident representatives of foreign powers, the militia, the merchants, the chamber of commerce, the societies, the faculty and students of the college, and a great host of citizens. As the procession went slowly through the streets to Trinity Church, guns were fired from the Battery and were answered by boats and frigates in the harbor. Every church bell in the city was muffled and tolled from six to seven in the morning and from seven to eight in the evening.*

Gouverneur Morris delivered an impressing funeral oration from a stage erected in front of Trinity Church.†

During this time, Burr kept close to his house at Richmond Hill, anxiously

awaiting the verdict of the coroner's jury. The Clintons, guided by Cheetah, seized upon this occasion to destroy Burr's influence forever. Cheetah affected to think the duel a murder,⁷ procured his indictment, and on August 2 the coroner's jury at New York found him guilty of murder.⁸ Meanwhile, on the 21st of July, Burr stole away during the night, was rowed across the bay to Perth Amboy, and early on the 22d was received at the home of Commodore Truxton. He finally wended his way to Philadelphia, where he boldly showed himself, was often seen on the streets, and was much in the company of the British minister. In its indictment the grand jury requested the district-attorney to prosecute Burr, and fearing that a requisition would be made on the governor of New Jersey for his

* McMaster, vol. iii., p. 53; Parton, *Life and Times of Aaron Burr*, p. 357.

† The drafting of this speech gave Morris uneasiness, which is revealed in his diary. "The first point in his [Hamilton's] biography is that he was a stranger of illegitimate birth; some words must be contrived to pass this over handsomely; he was indiscreet, vain, and opinionated; these things must be told or the character will be incomplete. He was in principle opposed to republican and attached to monarchical government. His share in forming our constitution must be mentioned, and his unfavorable opinion cannot therefore be concealed. The most important part of his life was his administration of the finances. The system he proposed was radically wrong in one respect; moreover, it has been the subject of some just and much unjust criticism. I can neither commit myself to a full approval, nor is it prudent to censure others. All this must, some way or other, be reconciled. He was in principle opposed to duelling, yet he fell in a duel."—Watson, *Life and Times of Thomas Jefferson*, pp. 437-438. See also Allan McLane Hamilton, *The Intimate Life of Alexander Hamilton* (1910).

* Parton, however, says: "In a few days the correspondence was published, and from that hour Burr became, in the general estimation of the people, a name of horror. Those preliminary letters, read by a person ignorant of the former history of the two men, are entirely damning to the memory of the challenger. They present Burr in the light of a revengeful demon, burning for an innocent victim's blood. Read aright—read by one who knows intimately what had gone before—read by one who is able to perceive that the moral quality of a duel is not affected by its results—read, too, in the light of half a century ago—and the challenge will be admitted to be as near an approach to a reasonable and inevitable action, as an action can be which is intrinsically wrong and absurd. But not so thought the half-informed public of 1804. They clamored for a victim." Nevertheless, as Parton observes, Burr "had better never again have opened his eyes upon the light of this world."—*Life and Times of Aaron Burr*, pp. 358, 352.

† Lamb, *City of New York*, vol. ii., p. 496 *et seq.*

arrest, Burr determined to flee.* He visited his daughter, Theodosia, at her home near Georgetown, South Carolina, spent several weeks with old political friends in South Carolina and other Southern States, and returned in time to resume his duties as Vice-President.*

CHAPTER VIII.

1804-1808.

BURR'S CONSPIRACY.

Burr's plans broached to Merry — The latter's report — Meeting of Burr and Blennerhassett — Burr's journey to New Orleans — Wilkinson's apathy — The Burr-Wilkinson letters — Burr's betrayal — The British refusal to advance money — Dayton's interview with Yrujo — Spain's refusal to aid Burr — Burr's letter of July 29 to Wilkinson — His visit to Morgan, Smith and Jackson — His purchase of the Bastrop grant — Daviess' warning to Jefferson — Proceedings of the Cabinet — Spanish encroachments on the frontier — Cabinet's orders to Wilkinson to expel the Spaniards — Wilkinson's warning to Jefferson — The Neutral Ground Treaty — Wilkinson's mysterious letters of warning — His attempt to secure money from Mexican officials — Trials of Burr in Kentucky — Jefferson's proclamation denouncing Burr — Jackson's warning to Claiborne — Martial law in New Orleans — Arrest of Bolman, Swartwout, Ogden and others — Burr's journey to New Orleans — Efforts to stop him — His arrival at New Orleans and subsequent arrest — Jefferson's message to Congress regarding conspiracy — Proceedings in Congress — Bolman's and Swartwout's release — Threats to impeach Marshall — Burr's trial and acquittal — Subsequent careers of the conspirators.

After Burr fled from New York, various schemes presented themselves to his mind — “projects of land speculation, of canal-making, of settling in some rising city of the West in the practice of law, of beginning anew his political life as the representative of a new State in Congress — “†but the most likely to succeed was that for forming a new empire somewhere in the West.‡ Burr rea-

lized that he could not consummate his schemes single-handed, particularly in the present state of public feeling, and determined to approach Great Britain through Anthony Merry, the British minister, but thought it prudent to employ a go-between named Charles Williamson.

hassett Papers; James Wilkinson, *Memoirs of My Own Time*, vol. ii.; Matthew L. Davis, *Memoirs of Aaron Burr*, vol. ii., chaps. xviii.-xix.; Washington's ed. of *Jefferson's Writings*, vols. iv.-v., *passim*; John Marshall, *Writings*, pp. 33-111; Magruder, *John Marshall*, chap. xi.; Morse, *Thomas Jefferson*, and works hereinafter cited. Mr. Walter F. McCaleb has brought together many of the original documents from the Mexican, Texan and other Western Archives in his *The Aaron Burr Conspiracy* (1903).

* Todd, *The True Aaron Burr*, pp. 32-33; Parton, *Life and Times of Aaron Burr*, p. 364 *et seq.*

* McMaster, vol. iii., p. 54.

† Parton, *Life and Times of Aaron Burr*, p. 384 *et seq.* See also Channing, *The Jeffersonian System*, p. 157.

‡ The original materials for the study of the Burr conspiracy are in *American State Papers, Miscellaneous*, vol. i.; *Annals of Congress*, 10th Congress, App.; W. H. Safford, *The Blenner-*



The exact details are not known, but it is certain that Merry readily fell in with Burr's scheme and sent Williamson to London with a letter of introduction.* Writing to Lord Harrowby on August 6, 1804, Merry said that Burr had offered to enter the employ of the British government with the avowed object of securing aid in effecting a separation of the Western and Eastern States.†

Knowing he must abandon hope of a Northern confederacy and concluding that the Mississippi Valley offered a better field, Burr determined to identify himself with Western life and politics. His friend, General James Wilkinson, persuaded him that it was to his interest to reside in the West, whence he might go to Congress as a Representative of some Western State.‡ Someone suggested that he become a delegate from the new government about to be organized in the Territory of Orleans. With this plan Burr pretended to be greatly taken and lost no time in preparing for a journey to New Orleans, as delegates from that Territory were then at Washington, seeking admission to the Union. Before setting out for New Orleans, however, he had a long conference with Merry, in which

he spoke of the sentiment favoring a separation, and stated that the Westerners would prefer the protection and assistance of Great Britain to that of France, but if the British government did not listen to his overtures, application for aid would be made to France, who would eagerly seize the chance to gain a foothold in America.* Burr requested that the British government station a fleet at the mouth of the Mississippi to block that river, and loan £100,000 to arm the fighting men, suggesting that this money be paid out of the £200,000 payable by the United States to Great Britain the following July.† Louis Marie Turrean, the French minister, had also become aware of Burr's schemes, and on March 9, 1805, wrote to Talleyrand stating that the separation of the Western country from the Union would soon occur and that Burr and Wilkinson were the projectors of the scheme.‡

After the parting interview with Merry in March, Burr journeyed down the Ohio to the vicinity of Parkersburg, where Harman (or Herman) Blennerhassett lived.|| The ac-

* Merry's letter of March 29, 1805, in McCaleb, *The Aaron Burr Conspiracy*, pp. 20-21, from the British archives. The same letter in part is in Adams, *United States*, vol. ii., p. 403. *The Autobiography of Charles Biddle*, p. 313, details Burr's talk of his expedition beforehand.

† McCaleb, *The Aaron Burr Conspiracy*, p. 23.

‡ See the letter in Adams, *United States*, vol. ii., pp. 406-407.

|| Hildreth (*United States*, vol. v., p. 595) examines this preliminary visits. Cf Monette, *History of the Discovery, etc. of the Mississippi Val-*

* Foster, *Century of American Diplomacy*, pp. 223-224. See also Bolman's communication in Madison's *Works* (Congress ed.), vol. ii., p. 399.

† See Merry's letter quoted in Adams, *United States*, vol. ii., p. 395.

‡ On Wilkinson's connection with the conspiracy, see *American State Papers, Miscellaneous*, vol. ii., pp. 79-127.

quaintance then formed meant much to both men afterward.* Blennerhassett was warm-hearted and had a natural inclination for schemes such as Burr's, but was lacking in judgment and came readily under Burr's influence. He had expended a large part of his fortune in turning Blennerhassett Island into a wild paradise,† and as the income from the remainder of his fortune did not suffice to maintain his property in good condition, he was very eager to find some quick and easy road to wealth.‡ It is certain that he intended "selling or letting this place to effect a removal to another, where [he] could embark in mercantile pursuits, or the resumption of [his] old legal profession."|| Burr confided his plans to Blennerhassett, who entered into them with zeal.§ advancing thousands of dollars for Burr's land schemes. Burr

then continued his journey, stopping at Cincinnati, Frankfort (Kentucky), Nashville (Tennessee), where he was the guest of Andrew Jackson and the recipient of unusual attention, and finally reaching New Orleans on June 25.¶ At New Orleans he found the people most suitable to his enterprise, for they were adventurous and the city seemed to be full of revolutionary schemes. He dropped some hints as to his great plans, and thus rumors got abroad that the West was to be separated from the Union and organized into an empire.‡

Satisfied as to the prospects of a revolt, Burr, after a stay of two weeks

* Parton, *Life of Burr*, pp. 389-393; A. C. Buell, *History of Andrew Jackson*, vol. i., p. 188; McMaster, vol. iii., pp. 57-58; Adams, *United States*, vol. iii., p. 221; Ogg, *Opening of the Mississippi*, pp. 628-629; Parton, *Life of Jackson*, vol. i., p. 308 *et seq.* Regarding the society frequented by Burr, see the note in McCaleb, *Aaron Burr Conspiracy*, p. 29.

† On September 7, 1805, Daniel Clark wrote to Wilkinson saying: "Many absurd and wild reports are circulated here, and have reached the ears of the officers of the late Spanish Government, respecting our ex-Vice-President. * * * You are spoken of as his right hand man. *Entre nous*, I believe that Minor of Natchez has had a great part in this business, in order to make himself of importance—he is in the pay of Spain and wishes to convince them that he is much their friend. * * * What in the name of Heaven could give rise to these extravagances? Were I sufficiently intimate with Mr. Burr, and knew where to direct a line to him, I should take the liberty of writing to him. * * * The tale is a horrid one, if well told. Kentucky, Tennessee, the State of Ohio, the four territories on the Mississippi and Ohio, with part of Georgia and Carolina are to be bribed with the plunder of the Spanish countries west of us to separate from the Union."—Wilkinson, *Memoirs*, vol. ii., App. xxxiii. See also Ogg, *Opening of the Mississippi*, p. 631; Parton, *Life of Burr*, pp. 399-400.

ley; Albach, *Annals of the West*, pp. 799, 807, 815. On Blennerhassett and his island see Hildreth, *Pioneer Settlers*, p. 491; J. S. C. Abbott, in *Harper's Monthly* (February, 1877); W. Wallace, in *American Whig Review*, vol. ii., p. 133; A. C. Hall, in *Potter's American Monthly*, vol. xvi., p. 289; *Macmillan's Magazine* (June, 1880); *Lippincott's Magazine* (February, 1879).

* Todd, *The Truc Aaron Burr*, p. 36; McCaleb, *The Aaron Burr Conspiracy*, p. 25; Hulbert, *The Ohio River*, p. 292.

† A picture and description of his house and pictures of Blennerhassett and his wife will be found in Hulbert, *The Ohio River*, pp. 280-288; Lossing, *Field-Book of the War of 1812*, p. 136; A. F. Gibbens, *Historie Blennerhassett Island Home* (1899).

‡ Channing, *The Jeffersonian System*, p. 159.

|| Letter to Devereux, December 15, 1805, *Blennerhassett Papers*, pp. 111-112.

§ Roosevelt, *Winning of the West*, vol. iv., p. 295; Channing, *The Jeffersonian System*, pp. 159-160.

at New Orleans, went to St. Louis, where he joined Wilkinson in September. According to some writers, he then found that Wilkinson's ardor for the enterprise had greatly cooled.* At Burr's trial Wilkinson seemed to deprecate this visit by repeating under oath the following conversation:

"Mr. Burr speaking of the imbecility of the government, said it would moulder to pieces, die a natural death, or words to that effect, adding that the people of the Western country were ready to revolt. To this I recollect replying, that if he had not profited more by his journey in other respects, he had better have remained at Washington or Philadelphia: for 'surely,' said I, 'my friend, no person was ever more mistaken. The Western people disaffected to the government! They are bigoted to Jefferson and democracy.'"[†]

Despite his own testimony, however, proof is lacking to show that Wilkinson's interest in Burr's project flagged. On the contrary, when Burr left St. Louis for Vincennes he carried with him the following letter to Governor William Henry Harrison:

"I will demand from your friendship a boon in its influence co-extensive with the Union; a boon, perhaps, on which the Union may much depend; a boon which may serve me, may serve you, and disserve neither. * * * If you ask, What is this important boon which I so earnestly crave? I will say to you, return the bearer to the councils of our country, where his talents and abilities are all-important at the present moment."[‡]

* McMaster, vol. iii., pp. 59-60; Roosevelt, *Winning of the West*, vol. iv., p. 299; Adams, *United States*, vol. iii., pp. 227-228.

† Wilkinson's *Memoirs*, vol. ii., p. 304; *Annals of Congress*, 10th Congress, 1st session, p. 611; Parton, *Life of Burr*, pp. 400-401.

‡ Parton, *Life of Burr*, p. 401; Wilkinson's *Memoirs*, vol. ii., p. 303. This letter might be, and has been, interpreted in two ways. Adams (*United States*, vol. ii., p. 228) cites it in proof

Again, Burr's letter to Wilkinson himself (written in cipher) proves that the two men were at least acquainted with one another's plans. It reads:

"The execution of our project is postponed till December. Want of votes in Ohio rendered movement impracticable; other reasons render delay expedient. The association is enlarged, and comprises all that Wilkinson could wish. Confidence limited to a few. Though this delay is irksome, it will enable us to move with more certainty and dignity. Burr will be throughout the United States this summer. Administration is damned, which Randolph aids. Burr wrote you a long letter last December, replying to a short one deemed very silly. Nothing had been heard from the Brigadier since October. Is Cusion [Colonel Cushing] et Portes [Major Porter] right?"*

When Burr returned to Philadelphia he learned that much of his scheme was already public property, the *United States Gazette* having printed a series of articles regarding his suspicious conduct and journeys in the latter part of July.[†] His plans had evidently been betrayed by someone. As early as April 30, 1805, John Randolph wrote to Joseph Nicholson

of Wilkinson's waning sympathy with the conspiracy, but McCaleb (*The Aaron Burr Conspiracy*, p. 35) says that it proves that Wilkinson was cleverly dissembling that Burr ought to be returned to Congress. From what we know of Wilkinson's double-dealing throughout his whole life, it is not difficult to believe that he wrote this letter to further Burr's project in the hope that it would succeed, but with the forethought that if he failed, he could point to it to prove that he sought to eliminate Burr as a factor in Western intrigue.

* Parton, *Life of Burr*, p. 406. See also p. 402.

† McMaster, vol. iii., pp. 60-61. See also the extracts from newspapers in McCaleb, *The Aaron Burr Conspiracy*, pp. 36-37.

that he did not like the aspect of affairs.* When the British minister read the queries in the *Gazette*, he was horror-stricken. On August 4, 1805, he wrote to Lord Mulgrave that, inasmuch as Burr's movements were being noticed in the public prints, the conspirators must have been betrayed.† The French minister, Turreau, was as well informed. Writing home on February 13, 1806, he said that, after a conference with Merry, Burr had gone south. Though the government seemed ignorant of Burr's plans, the separation appeared inevitable, and not so remote as was generally supposed. Turreau believed that this separation would benefit France.‡

When Burr arrived at Washington in November of 1805, he hurried to the British legation, where he expected to find an answer from London but was disappointed. The British minister should have been warned by this silence on the part of his government, but his unbounded enthusiasm seems to have turned his head when informed by Burr that everything was ready for the execution of the plan. Relying on aid from England Burr had promised his friends to return to New Orleans in March and that the revolution would commence at the end of April or the beginning of May — as soon as he should receive the necessary money and soldiers

from England.* Merry could hold out no hope, however, and Burr turned to other quarters for the money he deemed necessary for the enterprise. Before leaving Washington, Burr wrote to Blennerhassett concerning his plans, to which the latter replied offering his and his friends' co-operation "in any contemplated measures in which you may embark"† To this Burr replied on April 15, 1806, with a full exposition of the nature of his undertaking.‡

To the leaders of the conspiracy the situation seemed particularly promising. Few dreamed of the difficulties to be overcome, of the crying need for money and of the prejudices and distempers to be combated. Not so Burr and Jonathan Dayton, though neither was an adept in the art of extracting specie from foreign coffers. After his interview with Merry, Burr realized that little aid could be expected from Great Britain and accordingly turned to Spain, going to Philadelphia to interview the Spanish minister, Yrujo. Upon his arrival there, Burr sent Dayton to Yrujo with an excellently prepared story, expected to bring Yrujo to the financial aid of the scheme. Dayton first said that \$40,000 would not be an excessive sum to pay for certain events, then tran-

* Adams, *John Randolph*, pp. 156-157.

† Adams, *United States*, vol. iii., p. 226.

‡ *Ibid.*, pp. 226-227.

* See Merry's letter to Mulgrave, November 25, 1805, in Adams, *United States*, vol. iii., p. 229 *et seq.* See also McCaleb, *The Aaron Burr Conspiracy*, p. 42 *et seq.*

† *Blennerhassett Papers*, vol. i., p. 116; Parton, *Life of Burr*, pp. 402-403.

‡ *Blennerhassett Papers*, vol. i., p. 119.

spiring at London on the outcome of which depended the fate of the most treasured possessions of the Spanish monarchy. Yrujo said that the Spanish king was liberal and would generously reward services. Thus encouraged, Dayton stated that Burr had proposed to the British minister the taking of the Floridas from Spain and the separation of the West from the Union. Burr had visited the West and Southwest to prepare the people for the revolution and also for an expedition to conquer Mexico. Great Britain was favorably disposed, had appropriated \$500,000, and had organized a fleet which would bring arms, ammunition and artillery.*

Dayton assured Yrujo that the moment the British fleet appeared the Western States would declare themselves independent, that the United States troops in the West were ready to follow Burr, that no opposition from the feeble Federal government was anticipated, etc. Yrujo was not deceived as to this, for as early as August 5 he had registered his suspicions in a letter to Cevallos in which, after referring to Burr's secret interviews with the British minister and his demand for a passport to Mexico, he said that the West was not yet ripe for Burr's scheme and scoffed

at the idea of an attack on Mexico. But he showed that he had already fathomed Burr's scheme, saying that the supposed expedition against Mexico was ridiculous and chimerical.* Yrujo knew that if England really countenanced the plot, the conspirators would never have come to beg a few thousand dollars from Spain, and that even if the Mexican scheme was on foot, it would not have been revealed to him.

Meanwhile the news of warlike preparations in Kentucky gradually made its way across Texas and North Mexico to Salcedo at Chihuahua. Early in 1806 Antonio Cordero, governor of the Province of Texas, received word from the Spanish agents in Louisiana that an expedition was being equipped to conquer Mexico, and, on informing Salcedo of the fact, received instructions to put the country "in a good state of defense by bringing up the auxiliaries."† Similar information came from the intendant Morales at New Orleans and from Francisco Viana, inspector-general of the troops in Texas, from his headquarters at Nacogdoches.

Thus far Burr had only succeeded in throwing Yrujo off his guard, without obtaining the desired funds. He therefore employed new tactics, his project being outlined by Yrujo in a

* See the letter of Yrujo to Cevallos, December 5, 1805, from the Spanish archives, quoted in McCaleb, *The Aaron Burr Conspiracy*, pp. 55-56, and in Adams, *United States*, vol. iii., pp. 234-235. See also Ogg, *Opening of the Mississippi*, p. 632 *et seq.*; Foster, *Century of American Diplomacy*, p. 225.

* McCaleb, *The Aaron Burr Conspiracy*, p. 39, from the Spanish archives.

† See his letter of April 9, 1806, from the Bexar Archives, quoted in McCaleb, *The Aaron Burr Conspiracy*, p. 64.

letter to Cevallos (May 14, 1806). Yrujo said that pecuniary aid on the part of France and Spain was desired, but that he had not compromised his government, and would bring all the details upon his return home. Two or three Americans would go to Spain, too, for the purpose of interesting the government. He said that the principals did not wish to inform Turreau of their plans, since they had no confidence in him.*

Turreau, however, was not so ignorant of Burr's doings as the conspirators supposed, as is evidenced by his letter to Talleyrand of February 13, 1806, already mentioned. But Burr had not yet received the money of which he was in desperate need and hoped to coerce Yrujo by ignoring him. Dayton informed Yrujo that Burr expected the required aid from England, which government was more liberal with money and offered better protection. He said that an agent would sail to London to make new proposals to the ministry and to invite coöperation in an attack on the Floridas. Yrujo then warned the officials of the Spanish provinces to be on the alert against surprises, advanced Dayton \$1,500, and solicited an extra \$1,000 together with a pension of \$1,500 yearly from the Spanish king. Yrujo was allowed to pay the extra \$1,000, but the pension was refused. In a letter dated March 28,

1806, Cevallos warns Yrujo against committing himself or contributing money, declaring on July 12, that the king positively refused to back Burr's schemes. Almost at the same time Merry was informed that the British king had been pleased to grant his request for a recall and that David Montague Erskine had been appointed his successor. As he had not asked to be recalled, this must have surprised Merry considerably.* This was a severe setback, but though his intrigues in the East had resulted disastrously to himself, Burr was undaunted and determined to go West and set the wheels of revolution in motion without any further help. Peter V. Ogden, a nephew of Dayton, and Samuel Swartwout were sent with letters to Wilkinson and John Adair; Julius Erich Bolman was sent by sea with dispatches to New Orleans; † and last of all went Burr, his daughter, Theodosia Alston, and a French officer named De Pestre (or Du Peister).‡ Burr's letter, dated July 29, sent by Swartwout, is famous for giving the key to the conspiracy and was used by Wilkinson a few months later to show the reprehensible character of the plot. The original version will never be known, because Wilkinson altered it ("rendered [it]

* McCaleb, pp. 68-69.

† See Bolman's Communication in *Madison's Works* (Congress ed.), vol. iii., p. 394.

‡ Parton, *Life of Burr*, p. 413; McMaster, vol. iii., p. 63; Adams, *United States*, vol. iii., pp 251-252.

* McCaleb, *The Aaron Burr Conspiracy*, pp. 65-66.

to my satisfaction"), but as generally accepted, it reads as follows:

"Yours postmarked 13th May, is received. I have obtained funds, and have actually commenced the enterprise. Detachments from different points, and under different pretences, will rendezvous on the Ohio 1st November. Everything internal and external favors views. Protection of England is secured. T[ruxtun] is going to Jamaica to arrange with the admiral on that station. It will meet us at the Mississippi. —, England —, a navy of the United States, are ready to join, and final orders are given to my friends and followers. It will be a host of choice spirits. Wilkinson shall be second to Burr only; Wilkinson shall dictate the rank and promotion of his officers. Burr will proceed westward 1st August, never more to return. With him goes his daughter; the husband will follow in October, with a corps of worthies.

"Send forth[with] an intelligent and confidential friend with whom Burr may confer; he shall return immediately with further interesting details; this is essential to concert, and harmony of movement. Send a list of all persons known to Wilkinson, west of the mountains, who may be useful, with a note delineating their characters. By your messengers send me four or five commissions of your officers, which you can borrow under any pretence you please; they shall be returned faithfully. Already are orders given to the contractor to forward six months' provisions to points Wilkinson may name; this shall not be used until the last moment, and then under proper injunctions. The project, my dear friend, is brought to the point so long desired. Burr guarantees the result with his life and honor, with the honor and fortunes of hundreds, the best blood of our country.

"Burr's plan of operation is to move down rapidly from the Falls, on the 15th of November, with the first 500 or 1,000 men, in light boats now constructing for that purpose; to be at Natchez between the 5th and 15th of December, there to meet Wilkinson; there to determine whether it will be expedient in the first instance to seize on or pass by Baton Rouge. On receipt of this, send an answer. Draw on Burr for all expenses, etc. The people of the country to which we are going are prepared to receive us. Their agents, now with Burr, say, that if we will protect their religion, and will not subject them to a foreign Power, that in three weeks all will be settled. The gods invite [us] to glory and

fortune; it remains to be seen whether we deserve the boon. The bearer of this goes express to you. He is a man of inviolable honor and perfect discretion; formed to execute rather than project; capable of relating facts with fidelity, and incapable of relating them otherwise. He is thoroughly informed of the plans and intentions of Burr, and will disclose to you as far as you require and no further. He has imbibed a reverence for your character and may be embarrassed in your presence. Put him at ease, and he will satisfy you."*

After reaching Pittsburg, Burr turned aside and spent a night with Colonel George Morgan at Cammonsburg. Speaking about the western country, Burr said that "in less than five years you will be totally divided from the Atlantic States."† Alarmed at Burr's actions, Colonel Morgan repeated the conversation to the judges of the district, who informed Jefferson.‡ Burr then went on to Blennerhasset, where his blandishments, combined with the youth and beauty of Theodosia, completed the conquest half begun and made Blennerhasset the most devoted of Burr's adherents. He gave Burr money, bought supplies, built boats, and gave to the public a series of essays in order to show the State of Ohio that disunion was an

* The above is as given in Wilkinson's *Memoirs*, vol. ii., pp. 316-317. It differs slightly in *American State Papers, Miscellaneous*, vol. i., p. 471; Adams, *United States*, vol. iii., pp. 253-254; McCaleb, *The Aaron Burr Conspiracy*, pp. 74-75; and Parton, *Life of Burr*, pp. 427-428.

† Carpenter, *Trial of Burr*, vol. i., p. 497.

‡ Parton, *Life of Burr*, pp. 412-415; McMaster, vol. iii., pp. 63-64. See also McCaleb, *The Aaron Burr Conspiracy*, pp. 77-78. Parton thinks, however, that "on this occasion as on others Burr comported himself precisely as a man having 'treasonable' designs would not comport himself, unless he were mad or intoxicated."

infallible cure for all its natural and acquired ills.*

On September 4, 1806, Burr went to Cincinnati, where he was the guest of John Smith. During his visit of several days Burr talked much of his settlement of the Washita, of the threatening war, and of the expedition to Mexico. He next went to Lexington and thence into Tennessee, where he was again the guest of Andrew Jackson.† Scarcely had he reached Lexington on his return journey when Jackson's proclamation of October 4 to the Tennessee militia appeared in print. Jackson said that the menacing attitude of the Spanish forces demanded that the militia be ready for instant action; that the enemy had captured several American citizens, had cut down our flag in the Cadd's nation, and assumed an unjustifiable and threatening position east of the Sabine. Believing the war as good as begun, Jackson wrote to Jefferson of his willingness to serve the country.‡ Jefferson replied that he was unwilling that the peaceful condition of the country should be disturbed so long as the rights and interests of the Nation could be preserved, but that whenever hostile aggressions required a resort to war we must meet our duty.||

While at Lexington Burr met Blennerhassett, Theodosia Burr, and her husband, and there the purchase of the Bastrop lands was affected. When Louisiana was still a Spanish colony, Baron Philip Henri Neri de Tot Bastrop purchased a tract of land 12 leagues square on the Washita, in what is now north Louisiana, for an extensive agricultural colony. He was required to introduce not less than 250 families (with an allotment of 400 acres each) and to erect upon the bayous mills to manufacture flour for exportation. The grant was laid out on the bayous Siard Berthelemi and the Washita, including the rich elevated prairie and the sugar and cotton lands of the garden of Washita. Bastrop carried out his part of the contract to the extent of his ability, but the Spanish colonial government did not fulfill its engagement, thus causing the abandonment of the enterprise.* In some manner Colonel Charles Lynch had obtained about three-fifths of this land, but could not meet some outstanding debts against the grant. Burr then purchased the property on condition that he pay Edward Livingston the amount of Lynch's purchase and take up certain paper which Lynch valued at about \$30,000. In addition, Burr paid Lynch between \$4,000 and \$5,000.† The possession of these lands was of secondary importance, as they were to

* McMaster, vol. iii., p. 64; Adams, *United States*, vol. iii., pp. 255-257, 259-260.

† Buell, *History of Andrew Jackson*, vol. i., p. 195.

‡ *Ibid*, vol. i., p. 196; Parton, *Life of Jackson*, vol. i., pp. 319-320.

|| McCaleb, *The Aaron Burr Conspiracy*, p. 82.

* Bishop, *History of Manufactures*, vol. ii., p. 65.

† *Annals of Congress*, 10th Congress, 1st session, p. 657.

be used only in case of emergency. If their designs on Mexico were suspected by the Government, they would claim to be settlers about to develop this property; should they be driven back by the Spaniards, they would assert their citizenship in a republic capable of defending them. On October 24 Burr wrote to Governor Harrison in an effort to persuade him to issue a proclamation to the militia similar to that issued by General Jackson,* but Harrison ignored the request.

On October 25 Burr sent De Pestre to New York and Philadelphia with directions to report the movements of the Western conspirators to Yrujo as well as to Swartwout and Dayton. Burr told De Pestre that one object of his mission was to apprise the Spanish minister of the schemes concerning Mexico and Florida, but Yrujo was already informed regarding Burr's movements from other sources.† When De Pestre arrived, he gave Yrujo assurance that all was going well with the undertaking, but warned him that if he should hear of a contemplated attack on Mexico he was not to believe it, as Burr would circulate this rumor to hide his real designs and plans which were limited to the emancipation of the Western States.‡ De Pestre's mission made

Yrujo more suspicious than ever and he took every precaution to frustrate an attack on Florida or Mexico. He warned the Spanish in Florida, Texas, and Mexico to beware of number thirteen (General Wilkinson), whose fidelity could not be depended upon if he had a greater interest in violating it. On December 13 De Pestre again called on Yrujo, giving him further details of the proposed expedition, which in turn were forwarded in a letter to Cevallos December 16, 1806.*

While freely asserting that his military preparations had been made with the knowledge of the Government,† Burr did not take the Kentuckians themselves into consideration. At this time there was a considerable body of Federalists in Kentucky, prominent among whom were Humphrey Marshall and the United States District Attorney, Joseph Hamilton Daviess (left in office by Jefferson). As we have seen, the Spanish had not been backward in intriguing to separate the West from the Union, and Marshall and Daviess obtained a mass of evidence regarding these Spanish intrigues among

* Adams, vol. iii., pp. 265-266; McCaleb, p. 95, from the Spanish archives.

† There is some dispute as to whether Burr was directly responsible for this impression. Parton says that however this may be, "the idea in some way was given out, that the Government secretly approved of what Burr was doing. Burr would reply to this, that his plans were based on the certainty of war; and in time of war private expeditions, designed to injure the enemy, cannot but be approved by government."—*Life of Burr*, p. 417.

* Clark, *Proofs of the Corruption of General James Wilkinson*, App. p. 16.

† See his letter to Cevallos quoted in Adams, *United States*, vol. iii., pp. 261-262; McCaleb, *The Aaron Burr Conspiracy*, pp. 91-92.

‡ McCaleb, pp. 93-94; Adams, vol. iii., p. 264.

the Republicans of Kentucky.* As early as January 10, 1806, Daviess wrote to the President a private letter denouncing the old Spanish plot and declaring that it was still alive. He said that "a separation of the Union in favor of Spain is the object finally. I know not what are the means." Assuming that Jefferson was ignorant of the facts, since he had "appointed General Wilkinson as Governor of St. Louis, who, I am convinced, has been for years, and now is, a pensioner of Spain."† Daviess contented himself with a general warning, but said that a trustworthy man should be sent west to investigate.‡ Again in February Daviess wrote to Jefferson calling attention to Burr's movements during the previous summer, and charging both him and Wilkinson with conspiracy. On the 15th Jefferson wrote to Daviess requesting him to tell all he knew, and letter followed letter till, wearied with the apathy of the President, Daviess took matters into his own hands. On October 22, 24 and 25 the matter was discussed in Cabinet sessions, but these discussions resulted merely in an order to John Graham, secretary of the Territory of

Orleans to go through Kentucky "to inquire into Burr's movements, put the Governors, etc., on their guard, to provide for his [Burr's] arrest if necessary, and to take on himself the government of [upper] Louisiana."*

Meanwhile affairs on the frontier were rapidly approaching a crisis. After Monroe left Spain in May of 1805, the Mexican authorities were warned to place the Texan frontiers in a state of defence. Early in October of 1805 the forts at Bayon Pierre and Nana, east of the Sabine, were occupied. Behind these were Nacogdoches, Orcoquisac, and Trinidad, where the real struggle for the defence of the province would take place; and further in the interior were La Bahia, San Marcos, Refugio and San Antonio de Bexar. Early in January of 1806 Major Moses Porter, commanding Fort Clairborne at Nacitoches, was directed to obtain assurances from the Spanish officer in command at Nacogdoches that no further inroads would be made to the east of the Sabine. As the Spanish commander would not give this assurance, a body of American troops was ordered to proceed to Adayes, with instructions to request any Spanish troops that might be found there to leave and, if they refused, to drive them out. Early in February of 1806 the American troops arrived

* Marshall, *History of Kentucky*, vol. ii., pp. 376-384.

† Regarding this, see also Daniel Clark's affidavit in *American State Papers, Miscellaneous*, vol. i., pp. 704-705, and other documents, incriminating letters, etc. in *ibid.*, vol. i., pp. 705-713, 936-939, and vol. ii., pp. 79-127.

‡ Clark, *Proofs of the Corruption of General James Wilkinson*, pp. 177-179; Daviess, *View of the President's Conduct*, p. 10.

* Ford's ed. of *Jefferson's Writings*, vol. i., pp. 318-320; McCaleb, *The Aaron Burr Conspiracy*, pp. 101-103; McMaster, vol. iii., pp. 66-67; Adams, *United States*, vol. iii., pp. 280-281.

at Bayou Pierre, near Adayes and, though protesting against this unwarranted invasion of his Majesty's territory, the Spanish commander promised to remove the troops to the other side of the Sabine within six days.* But Nimesio Salcedo, captain-general of the internal provinces of Mexico, did not intend to abandon permanently the region in dispute and at once ordered 600 militia under Lieutenant-Colonel Simon de Herrera to the fort. The Spanish soldiers who had lingered at New Orleans beyond their allotted time were ordered away; among them were the former intendent, Juan Ventura Morales and the Marquis de Casa Calvo, who set out for Pensacola,† Thereupon Governor Folch, of West Florida, refused to permit the transportation of United States mail through his territory, strengthened the fortifications at Mobile, and sent emissaries among the Choctaws. Claiborne became uneasy at these evidences of hostility and requested the President to send a substantial force to insure the safety of New Orleans.

By the end of June of 1806 there were more than 1,000 Spanish soldiers in Texas, though the force on the frontier was not over 700. In July a body of troops under Viana

again hoisted the Spanish flag at Bayou Pierre, and the intelligence of this recrossing of the Sabine roused the people. On August 17 Governor Claiborne, of Louisiana, and Cowles Meade, acting-governor of Mississippi, issued a joint proclamation calling upon the people to aid the regular troops in expelling the hated invaders from Bayou Pierre. It was then reported that 900 men under the governor of Texas had advanced to within 12 miles of Natchitoches with the intention of reoccupying their former positions. But the American commander had been instructed by Wilkinson to disregard the instructions of the Secretary of War, and as the Spaniards desisted in their undertaking, no collision took place. This aroused Governor Claiborne's suspicions. He gave vent to them in a letter to Meade dated September 9, 1806, and there let the matter drop.* Though he referred to the movements of the Spaniards in two letters to the War Department, he made no mention of his suspicions.

On May 6, 1806, the Secretary of War directed Wilkinson to repair to New Orleans, take charge of the troops there, and repel any invasion of American territory.† But in spite of these orders and of the fact that on June 17 he wrote Dearborn he would "obey the military mandates," he did not arrive at Natchez until September 7, his procrastina-

* *American State Papers, Foreign Relations*, vol. ii., pp. 798-799; Martin, *History of Louisiana*, vol. ii., p. 63 *et seq.*; Gayarré, *History of Louisiana*, vol. iv., p. 137.

† *American State Papers, Foreign Relations*, vol. ii., pp. 801-802.

* *Ibid.*, pp. 117-119.

† Wilkinson's *Memoirs*, vol. ii., App. xc.

tion having no other purpose than to await the development of the conspiracy.* He then corresponded with Cordero, explaining that he had been directed by the President to hold the east bank of the Sabine as the temporary limit of the United States and that he meant to do this regardless of cost. The Spanish troops east of the Sabine were invaders, he said, and if they did not peaceably evacuate, he would be under the necessity of expelling them by force.† On September 29 Cordero refused to evacuate, but agreed to send a message to Salcedo for instructions.‡ Wilkinson decided to await the reply; but on September 27, while he waited at Natchitoches, Herrera, at Bayou Pierre, exercising his own discretion, ordered a retreat, and the Spanish flag waved over Bayou Pierre for the last time. The crisis on the frontier had passed.||

On October 8 Samuel Swartwout reached Natchitoches with Burr's letter of July 29.§ Having passed the night in deciphering the letter and reflecting on it, Wilkinson at once took measures to protect his own interests so that he would not be charged with misprision of treason. The next morning he took aside Colonel T. H.

Cushing, in command of the fort, read the letter.‖ It announced that he meant to tell the President of the plot.‡ If less, he did not send the promised letter to Jefferson until October 20, and in that letter he did not so much as mention Burr's name.‡ While he knew that the purpose of the expedition was to secure the independence of New Orleans and that Burr was in command, he assured Jefferson that the expedition was destined for Vera Cruz; that it was unknown under what authority the enterprise had been projected, whence its means of support were derived, or what might be the intention of its leaders respecting New Orleans.‡ The following day he said in a confidential letter to Jefferson:

"Although my information appears too direct and circumstantial to be fictitious, yet the magnitude of the enterprise, the desperation of the plan, and the stupendous consequences with which it seems pregnant, stagger my belief and excite doubts of the reality, against the conviction of my senses; and it is for this reason I shall forbear to commit names."||

But Wilkinson was not cunning enough to see that he contradicted

* McCaleb, *The Aaron Burr Conspiracy*, pp. 121-122; Wilkinson's *Memoirs*, vol. ii., p. 309.

† *American State Papers, Foreign Relations*, vol. ii., pp. 803-804.

‡ *Ibid.*, p. 804.

|| For details see McCaleb, pp. 122-135.

§ For Swartwout's account of his journey see Wilkinson's *Memoirs*, vol. ii., pp. 313-315.

* Parton, *Life of Burr*, pp. 429-430; Wilkinson's and Cushing's affidavits in *American State Papers, Miscellaneous*, vol. i., pp. 472-473, 557-558; Wilkinson's *Memoirs*, vol. ii., p. 323, and App. xcii.

† Phelps, *Louisiana*, p. 235 *et seq.*; Wilkinson's *Memoirs*, vol. ii., App. xciv.

‡ McCaleb, *The Aaron Burr Conspiracy*, pp. 141-142.

|| For the letter, see Wilkinson's *Memoirs*, vol. ii., App. xciv.

at statements in another part though:

war, or in my whole life found myself territorial instances of perplexity and embarrassment at present; for I am not only *uninformed* of the prime mover and ultimate objects of this daring enterprise, but am ignorant of the foundations on which it rests, of the means by which it is to be supported, and whether any immediate or collateral *protection*, internal or external, is expected."

But to this letter Wilkinson added a remarkable footnote:

"Should Spain be disposed to war seriously with us, might not some plan be adopted to correct the delirium of the associates, and *by a suitable appeal to their patriotism to engage them in the service of their country?*" I merely offer the suggestion as a possible expedient to prevent the horrors of a civil contest, and I do believe that with competent authority I could accomplish the object."

Had Wilkinson left no other trace of his vicious and brazen double-dealings, this note would irretrievably condemn him. After representing that Burr's followers were desperate bandits, he attempts to save himself by saying that they might be diverted from their purpose of treason and led against the Spaniards, and that *he could accomplish the object*. While he knew that the expedition was planned to leave Kentucky on November 15, he took no decisive steps to prevent its success. He sent no word to Fort Adams, to Chickasaw Bluffs, to Fort Massac, or to the authorities of Kentucky or Tennessee.

Wilkinson then hurried to the frontier ostensibly to drive out the Spaniards, and on October 29, with-

out meeting even a Spanish patrol, he halted the troops on the east bank of the Sabine. He sent a dispatch to Cordero suggesting that, without yielding a pretension or ceding a right, the two nations should retire to Nacogdoches and Natchitoches, respectively. Cordero answered on November 3 saying that the decision must rest with Salcedo, but in the meantime Herrera announced his acceptance of the terms and on the 5th the pact known as the Neutral Ground Treaty was concluded.* Wilkinson then wrote to Cordero that after "proclaiming the jurisdiction of the United States here" he should "move his troops from this point to Natchitoches," trusting that "the orders to the troops under your [Cordero's] command will not be varied."† It was a clever ruse to pretend that he had proclaimed American jurisdiction to the Sabine, for neutrality had already been declared over the territory from the Arroyo Hondo to the Sabine. It was a judicious move on Wilkinson's part to cover up his treachery by concealing the real terms of the treaty. The Spaniards were not to cross the Sabine, but he said nothing of the Arroyo Hondo marking the boundary of the American territory. The public believed that the Spaniards had acknowledged the rights of the Americans to the Sabine and it would

* Wilkinson's *Memoirs*, vol. ii., App. xevii.

† McCaleb, *The Aaron Burr Conspiracy*, pp. 150-151.

have been a dangerous shock to have dispelled the illusion.

When quiet had been restored on the frontier, Wilkinson hurried back to Natchitoches, arriving on November 7. There a package reached him from Bolman, then in New Orleans. It contained a copy of Burr's letter of July and a note from Dayton. Hardly had these come to hand when a letter notified him that information had been received from St. Louis announcing that a plot existed for the separation of the Western country, that the revolution was soon to begin, and that on November 15 Ohio, Indiana, Kentucky, Tennessee and Orleans were to declare their independence.* Thoroughly alarmed, Wilkinson seems to have chosen his part and to have decided to pose as the savior of the country. Once having decided to oppose Burr, he began to exaggerate the danger. On November 7 he wrote to Cushing from Natchitoches to hurry to New Orleans:

"By letters found here, I perceive the plot thickens; yet all but those concerned sleep soundly. My God! what a situation has our country reached. Let us save it if we can. * * * No consideration, my friend, of family or personal inconvenience, must detain the troops a moment longer than can be avoided,—* * * ; they must come and rapidly. On the fifteenth of this month, Burr's declaration is to be made in Tennessee and Kentucky; hurry, hurry after me, and, if necessary, let us be buried together in the ruins of the place we shall defend."†

He never explained what he meant by saying that Burr would make his

declaration in Kentucky and Tennessee on November 15, for Burr spent that day quietly in Lexington. He made himself ridiculous also by imposing secrecy on his lieutenants concerning an affair which was already notorious on the frontier.* Wilkinson left Natchitoches November 7, reached Natchez on the 11th, and on the 12th announced in a letter to Claiborne the approach of the awful storm which he knew had been brewing for weeks, but which he had concealed for fear of producing incalculable disaster!† On the same day Wilkinson sent by messenger to Jefferson a long dispatch giving an account of Burr's actions:

"This is, indeed, a deep, dark and widespread conspiracy, embracing the young and the old, the Democrat and the Federalist, the native and the foreigner, the patriot of '76 and the exotic of yesterday, the opulent and the needy, the 'ins' and the 'outs'; and I fear it will receive strong support in New Orleans from a quarter little suspected. * * * I shall glory to give my life in the service of my country; for I verily believe * * * should seven thousand men descend from the Ohio with my handful of veterans, however gallant, it is improbable I shall be able to withstand such a disparity of numbers. * * * To give effect to my military arrangements, it is absolutely indispensable New Orleans and its environs should be placed under martial law. * * * To insure the triumph of government over its enemies, I am obliged to resort to political finesse and military stratagem. I must hold out false colors, conceal my designs, and cheat my adversaries into a state of security, that, when I do strike, it may be with more force and effect."‡

* See letter quoted in McCaleb, *The Aaron Burr Conspiracy*, p. 159 *et seq.* See also Wilkinson's *Memoirs*, vol. ii., App. xcix.

† Wilkinson's *Memoirs*, vol. ii., pp. 328-329.

‡ *Ibid.*, vol. ii., App. c.

* McMaster, vol. iii., p. 73; Parton, *Life of Burr*, pp. 432-433.

† Wilkinson's *Memoirs*, vol. ii., App. xcix.

Hardly had Wilkinson sent off these official dispatches when he sent his aide, Walter Burling, to Mexico City, ostensibly to buy mules. In his letter to Burling on November 13, 1806, he said that the alarm produced by Burr's project afforded a reasonable excuse to visit the City of Mexico by an inland route and to return by the water route so as to examine both routes as to their practicability and the means of defence possessed by the Spaniards.* Burling accepted the mission and Wilkinson gave him a passport in which he said that a powerful combination of lawless citizens was preparing to carry on an expedition into Mexico and that Burling was deputed to hand the viceroy a detailed report of Burr's plans and designs.† This passport stands out in sharp contrast to his letter to Jefferson, for instead of a treasonable conspiracy to disrupt the Union it was an expedition into Mexico that he there speaks of. The two documents varied with the necessities of the case. Toward the end of November Burling set out and, with the assistance of the Spanish officials, reached Mexico City late in January and delivered his message. Before the end of February of 1807, he returned to the General in New Orleans. On March 12 the viceroy, José de Iturrigaray, wrote a letter to Cevallos which reveals the real purpose of Burling's mission. He

spoke of the information he had received concerning the Burr expedition and then proceeded to tell of Wilkinson's requests. The latter laid great stress on the measures he had taken at the risk of his life, fame and fortune to save Mexico from the threatened attack and asked to be paid for these services, demanding \$85,000 in one sum and \$26,000 in another. He also wished to be reimbursed for the sums he had expended. The viceroy destroyed the letter in the presence of Burling, refused to pay the money without orders from the king, and gave Wilkinson to understand that the insurgents had caused him no alarm and that he already knew as much about their movements as did Wilkinson and had taken measures to repel the insurgents by force.* This was the cause of Wilkinson's change of heart regarding the Burr enterprise. He knew that there was no possibility of war with Spain and that he could not hope to cover himself with glory by means of it; the newspapers were stigmatizing him as a confederate of Burr in his designs; and he hoped by turning traitor to Burr and turning the tide of public execration against him not only to establish his own "honorable fame" in the United States as the savior of the country, but also to acquire a fortune from the Mexican officials on the pre-

* See his letter to Burling in McCaleb, *The Aaron Burr Conspiracy*, p. 165.

† Wilkinson's *Memoirs*, vol. i., pp. 417-418.

* See his letter in McCaleb, pp. 168-169, from the Mexican Archives. See also the footnote in Parton, *Life of Burr*, pp. 430-431, giving additional authorities for the above statements.

tense of having rendered incalculable services to his Majesty. At the very time the viceroy wrote to Cevallos concerning Wilkinson the latter forwarded to Jefferson a report, purporting to have come from Burling, of conditions in Mexico, requesting the sum of \$1,500 alleged to have been expended in Burling's praiseworthy undertaking; and Jefferson had not the heart to deny the request of one he considered a faithful public servant.*

Meanwhile what had happened to Burr? We have seen that Daviess and Marshall had collected a mass of evidence regarding Burr and his schemes, that Daviess had warned Jefferson of the conspiracy, and that the latter remained inactive. Early in July of 1806 the first number of a paper called the *Western World* appeared at Frankfort (Kentucky), the editors and proprietors of which were Joseph M. Street and John Wood.† From the first the *Western World* aimed to show that the Spanish Association of 1787, the Blount conspiracy, the Miranda enterprise, and Burr's scheme were but so many different forms of the old plot. These charges caused considerable commotion in the valley,‡ but the *Western World* persevered in its work and

Blennerhassett foolishly undertook to answer its charges. Over the signature of "Querist," he published a series of essays in the *Ohio Gazette* intended to show that the scheme so bitterly denounced was not so bad after all, there being many reasons for the separation of the West from the East (favoring Ohio in particular).

On that day Burr was at Cincinnati. A week later he crossed to Lexington, hurried to Nashville, where a public dinner was given him and where Andrew Jackson enlisted in his cause, and in October returned to Lexington.* Burr's preparations were far from complete, the delay being due probably to the time wasted in getting Blennerhassett's money. Burr had already ordered the construction of boats and the enlistment of men at various points on the Ohio, especially at Marietta, near Blennerhassett's Island. He waited long before beginning operations on the Cumberland, for not until November 3 did Andrew Jackson at Nashville receive a letter from Burr enclosing \$3,500 in Kentucky bank notes, with orders to begin the construction of five large boats, to purchase supplies, and to enlist recruits.†

Meanwhile Burr's affairs were going ill, for though his cause seemed flourishing, it was in fact already doomed. The return of Burr, the essays of "Querist," the building of

* McCaleb, p. 171. Burling's report is in Wilkinson's *Memoirs*, vol. i., pp. 418-432.

† *Ibid.*, p. 173. McMaster, vol. iii., p. 64, and Adams, vol. iii., p. 372, however, say that Daviess established the *Western World* for the purpose of exposing Burr's schemes.

‡ See McCaleb, p. 174 *et seq.*

* McMaster, vol. iii., p. 65.

† Parton, *Life of Jackson*, vol. i., pp. 316-317.

boats at Marietta and on the Cumberland, the enlistment of men, and the babble of Blennerhassett convinced Daviess that the old plot was about to be executed. Therefore, on November 3, when the United States District Court opened its session at Frankfort, Daviess openly accused Burr of being at the head of a conspiracy to deliver the Western territory to England and Spain, asserted that \$200,000 had been drawn out of banks at various places to promote the scheme, and entered a complaint against Burr for thus violating the laws of the United States.* On November 8 Burr appeared in court and demanded inquiry. A warrant was then issued, a grand jury summoned, and on November 12, the day fixed for the investigation, Burr appeared, surrounded by friends, with Henry Clay for counsel.† When the court opened on that day Daviess stated that his chief witness was in Indiana and, to everyone's astonishment, asked for a postponement. In an instant roars of laughter and shouts of derision rose from the crowd, for judge, jury and spectators were

heartily in sympathy with Burr. The jury was discharged and Burr delivered one of those quiet, dignified addresses he so well knew how and when to make. He then left the court in triumph.*

This episode in no way interrupted the conspirator's preparations. As yet Burr was unaware that Williamson had denounced him to the President, that Graham was on the Ohio, and that Wilkinson was preparing to protect New Orleans against Burr's horde of bandits expected at any moment to arrive in the city. Shortly after the trial Burr went to Louisville, whence on November 27, denying the "extravagant reports" concerning himself, he wrote to Governor Harrison as follows:

"I have no wish or design to attempt a separation of the Union; I have no connection with any foreign power or government; I never meditated the introduction of any foreign power or influence into the United States, or any part of its territories; but on the contrary [I] should repel with indignation any proposition or measure having that tendency; in fine, I have no project or views hostile to the interest, or tranquility, or union of the United States, or prejudicial to its government; and I pledge you my honor for the truth of this declaration. It is true that I am engaged in an extensive speculation, and that with me are associated some of your intimate and dearest friends. The objects are such as every man of honor and every good citizen must approve. They have been communicated to several of the principal officers of our government, particularly to one high in the confidence of the Administration. He has assured me my views would be grateful to the Administration.

* According to Blennerhassett, "Daviess instituted the first proceedings against him, partly from a sense of neglect on the part of Burr, and through enmity to the President, who he fully believed was concerned with Burr, or connived at his operations."—*Blennerhassett Papers*, p. 373. In his pamphlet (*A View of the President's Conduct*) Daviess proves that it was not patriotic zeal which induced him to bring Burr into court.

† Schurz, *Life of Clay*, vol. i., p. 35. See also Collins, *History of Kentucky*, vol. i., p. 292 *et seq.* Cf. John Wood, *Full Statement of the Trial and Acquittal of Burr* (Alexandria, 1807).

* Adams, *United States*, vol. iii., pp. 277-278; McMaster, vol. iii., pp. 67-68; McCaleb, *The Aaron Burr Conspiracy*, p. 178 *et seq.*; Parton, *Life of Burr*, pp. 419-420, quoting Collins, *History of Kentucky*.

Indeed, from the nature of them it cannot be otherwise, and I have no doubt of having received your active support if a personal communication with you could have been had."*

On November 27, while still in Louisville, Burr heard that two days before District Attorney Daviess had renewed his motion in the district court for a grand jury to inquire into Burr's conduct. He then wrote to Clay to come to his assistance† and on the 31st sent him a letter denying the rumors in regard to his projects.‡ Undoubtedly Clay honestly believed Burr to be innocent and not until he read Jefferson's message to Congress, did he begin to doubt that innocence.|| Burr wrote to Clay that—

"He had no design to intermeddle with or disturb the tranquility of the United States, nor its territories, nor any part of them. He had neither issued, nor signed, nor promised a commission to any person for any purpose. He did not own a single musket, nor bayonet, nor any single article of military stores, nor did any other person for him, by his authority or knowledge. His views had been explained to several distinguished members of the administration, were well understood and approved by the government. They are such as every man of honor and every good citizen must approve."§

On December 2 the court met, Burr

with his counsel, Clay and Allen, being present. When the witnesses were called before the grand jury the case against Burr fell flat. The two principal witnesses—Street and Wood, editors of the *Western World*—swore that they could give no damaging evidence, that their evidence had been derived from hearsay, and that they knew no one who could testify in the case. Wood even stated that he had changed his mind regarding Burr and that he now believed Burr to have no designs antagonistic to the laws and interests of the United States.* As the other witnesses could do no better, the jury refused to find an indictment. Again Burr was vindicated; again the spectators applauded; again the people showed their sympathy for him, proving their devotion by giving a grand ball in his honor.†

Burr's triumph, however, was short-lived. While Daviess was meeting with failure in his efforts to indict Burr, Jefferson was being deluged with letters giving testimony as to Burr's treasonable designs and suspicions as to his intentions. On November 4, 1806, Duane, of the *Aurora*, wrote him that he suspected Burr, and four days later Caesar A. Rodney wrote to the same effect. But as late

* Clark, *Proofs of the Corruption of General James Wilkinson*, App. p. 17; Parton, *Life of Burr*, pp. 423-424.

† Colton, *Private Correspondence of Henry Clay*, p. 13.

‡ Prentice, *Henry Clay*, p. 32; Schurz, *Life of Henry Clay*, vol. i., p. 35; Epes Sargent, *Life and Public Services of Henry Clay*, p. 25. See also McCaleb, *The Aaron Burr Conspiracy*, p. 185.

|| See his letter to Thomas Hart, quoted in Thomas Hart Clay, *Life of Henry Clay*, p. 41 (1910); McCaleb, p. 186. See also his letter to Prudell in *Clay*, pp. 42-44.

§ Parton, *Life of Burr*, p. 422.

* See Wood, *A Full Statement of the Trial and Acquittal of Aaron Burr* (Alexandria, 1807).

† Parton, *Life of Burr*, p. 422; Roosevelt, *Winning of the West*, vol. iv., p. 302; Adams, *United States*, vol. iii., pp. 282-283; McMaster, vol. iii., p. 69; McCaleb, *The Aaron Burr Conspiracy*, pp. 188-193.

as the 24th Jefferson seems to have disregarded these evidences of impending disturbances. On the 24th he wrote to Duane: "In the Western quarter great things have been meditated; but they will probably end in an attempt upon the public lands, and the question will be whether we have authority legally to oppose them with force." But the next day (the 25th) Jefferson's opinion was suddenly changed by the arrival of Smith with the dispatches from General Wilkinson. So startled was the President that the Cabinet was hastily summoned, at which it was determined to issue a proclamation warning the country, to seize the boats building at Marietta, to prevent the passage of the expedition down the Ohio, to place New Orleans in a state of defence, and to arrest persons suspected of complicity in the plot.

Despite the suspicions aroused in the Cabinet by Wilkinson's conduct and his obviously double-faced dispatches, Jefferson, with stoical blindness, failed to see through the deception and granted him the power he was to assume on his own account in New Orleans. On the 26th orders were sent to Marietta to station militia along the river to prevent the passage of Burr's "gunboats," and on the 27th Jefferson issued his proclamation denouncing the conspiracy and cautioning all persons against joining Burr's enterprises.* At the

same time orders were issued to officers at different points on the Ohio and Mississippi to seize the boats and stores and to arrest the persons engaged in the expedition.*

Despite the urgency of speedy action and his promise to leave Natchez for New Orleans November 14, Wilkinson did not enter that city until November 25,† nor did he inform Claiborne at once as to his intentions, but kept him in ignorance until the last of the month. Evidently Claiborne's mind was in a haze, he having fallen completely under Wilkinson's spell. To add still further to his bewilderment, he received a note from Jackson on December 5 (written November 12), giving further proof of the conspiracy:

"I fear treachery has become the order of the day. This induces me to write you. Put your town in a state of defense, organize your militia, and defend your city as well against internal enemies as external. My knowledge does not extend so far as to authorize me to go into details, but I fear you will meet with an attack from quarters you do not at present expect. Be on the alert, keep a watchful eye on our general [Wilkinson] and beware of an attack as well from your own country as Spain. I fear there is something rotten in the state of Denmark. * * * I fear there are plans on foot inimical to the Union; whether they will be attempted to be carried into effect or not, I cannot say, but rest assured they are in operation, or I calculate boldly [badly?]. Beware of the month of December. I love my country and government; I hate the Dons; I would delight to see Mexico

pp. 404-405; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 481-482; *Annals of Congress*, 9th Congress, 2d session, p. 686.

* King, *Ohio*, p. 312; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 320-321. See also McCaleb, *The Aaron Burr Conspiracy*, p. 196 et seq.

† Wilkinson's *Memoirs*, vol. ii., p. 329.

* Richardson, *Messages and Papers*, vol. i.,

reduced; but I will die in the last ditch before I would yield a foot to the Dons or see the Union disunited. This I write for your own eye and for your own safety; profit by it and the ides of March remember!"*

Claiborne evidently intended to act on this advice, as he prepared a proclamation to the governors of the surrounding territories. He did not send it, however, instead sending a message to Cowles Meade, acting-governor of Mississippi, with a verbal story of the apprehended trouble. Meade was not surprised, having himself denounced Wilkinson in the strongest terms in a letter to Claiborne a month before.

Thus, before Burr had left Kentucky, before the proclamation was issued and before Wilkinson had arrived at New Orleans, the people of Mississippi apprehended danger, but suspected that Wilkinson, and not Burr, was at the bottom of it. It is clear that Meade had no confidence in Wilkinson and had the greatest faith in the loyalty of the people. For this he was accused by Wilkinson of being in sympathy with the conspirators and was dismissed from office.† Claiborne was already in a state of terror, but his trials were only beginning. On December 6 Wilkinson sent him a note entreating him to place the city and vicinity under martial law.‡

* *American State Papers, Miscellaneous*, vol. i., p. 563; *Annals of Congress*, 10th Congress, 1st session, p. 571. Cf. also Adams, *United States* vol. iii., pp. 315-317; McCaleb, *The Aaron Burr Conspiracy*, p. 203; Parton, *Life of Jackson*, vol. i., p. 319.

† McCaleb, *The Aaron Burr Conspiracy*, p. 205.

‡ Gayarré, *History of Louisiana*, vol. iii., p. 163; McCaleb, pp. 205-206.

Claiborne, clearly out of sympathy with Wilkinson's plans, remained inactive. Hence Wilkinson took matters into his own hands. He addressed a note in French to the commanders of the city militia saying that good and sufficient reasons led him to believe that a large body of men were descending the Mississippi to attack the city; that therefore the militia should be put in readiness to march, the negroes should be watched, and guards mounted.* On the 9th Wilkinson and Claiborne induced the Chamber of Commerce to lay an embargo and to release any sailor from the merchantmen who desired to enter the navy. Under this agreement, Claiborne issued instructions that no vessel be permitted to leave port without orders from Wilkinson or himself.† It is hard to see why Wilkinson waited two weeks after reaching New Orleans before taking the people into his confidence, if they were to suffer by the attack on the city. He himself says that he concealed his intentions "with the double view of preserving [his] person from assassination, and to keep open the channels of communication by which [he] had received information of their secret designs and movements."‡ It is evident that he did

* Claiborne's *Journal*, p. 366. Regarding the necessity for this, see his contradictory letter to Clark, in Clark, *Proofs of the Corruption of General James Wilkinson*, note 70.

† McCaleb, pp. 208-210. See also Claiborne, p. 388.

‡ See McCaleb, p. 211.

not so much desire to save the city as himself and to make out a case against the very man with whom but yesterday he had plotted to conquer Mexico.

On December 15, 1806, Wilkinson wrote Claiborne charging him with being "unduly biased by the solicitations of the timid, the capricious or the wicked" who approached him and harassed him "with their criticisms on subjects which they do not understand, and their opposition to measures which they do not comprehend, or which, understanding, they are desirous to prevent or to defeat." Only the day before Wilkinson had begun that memorable and almost unparalleled series of arrests which served as precedents for Reconstruction times. Claiborne refused to suspend the writ of *habeas corpus* or to declare martial law; on the contrary, he said to Wilkinson: "The judiciary of the territory, having exclusive cognizance of offenses, is the only tribunal to which I can refer you, nor can any acts of mine arrest or suspend their powers."† Nevertheless Wilkinson proceeded on his course. Bolman was seized first. Swartwout and Ogden were arrested at Fort Adams, and all three were hurried on board the bomb-ketch *Ætna*, then lying at anchor off the city. These arrests being wholly illegal, the superior court of Orleans issued a writ of *habeas corpus*. The governor advised Wilk-

inson to yield to the civil authorities, but he refused. He believed that both Judge James Workman and Judge Prevost were engaged in the conspiracy with Burr,* and he was obliged to defy them or risk his own success. The city was now completely in the hands of Wilkinson, and a day was wasted before the officer bearing the writ of *habeas corpus* could find a boatman to row him out to the bomb-ketch.† When he did reach the *Ætna* the officer found that of the three men, Ogden alone was there and that Swartwout and Bolman had been sent north by sea. Ogden was then brought before Judge Workman, but was discharged for lack of evidence. On the 17th, to justify the arrest of Bolman, Wilkinson swore to an affidavit which embodied a copy of Burr's letter of July 29 and some of Bolman's own notes. From the court the letter went to the newspapers, by them to be spread over the territory. It was in the columns of one of these newspapers that Burr—so tradition has it—read the letter with horror and dismay on his arrival at Bayou Pierre.‡ Despite the President's repeated requests, Wilkinson did not send Jefferson a copy of Burr's letter

* See his letter of December 18, 1806, in *American State Papers, Miscellaneous*, vol. i., p. 470.

† This is so stated by McMaster, but McCaleb, (p. 216) says the writ was not secured until two days after the arrest (the 16th).

‡ McMaster, vol. iii., pp. 73-74; Adams, *United States*, vol. iii., pp. 319-320; McCaleb, *The Aaron Burr Conspiracy*, pp. 216-217. (Regarding this, however, see p. 266.)

* Claiborne's *Journal*, p. 378.

† *Ibid.*, p. 383.

before the 18th, and this did not reach him before January 18.*

Within twenty-four hours after his release, Ogden was again arrested by Wilkinson and with him a certain Mr. Alexander. A week later the two were removed to Fort St. Philip and two days afterward Alexander, who had done nothing more than sue out writs, was forced to sail for Washington, without money and with very little clothing. Another writ of *habeas corpus* was issued, but Wilkinson defied it and held the prisoner. The court then attacked Wilkinson for contempt, but the general defied the attachment.† The judges next called on the governor for help, but the governor dared not give it. Thereupon, Workman, declaring that the judicial power had now become subservient to the military power, resigned, leaving Wilkinson undisputed ruler of New Orleans.‡ This threw the people of New Orleans into a panic, for Wilkinson's power of life and death was then supreme. According to Adams,|| every important man in New Orleans was a silent accomplice of Burr, but this does not seem to be entirely borne out by the facts, though evidently many prominent persons knew of Burr's schemes and were involved in

the plot.* Writing to Claiborne, Wilkinson said: "It pains me to add, but it is my duty to declare, that I have the strongest grounds for believing that Judge Workman has been deeply and actively engaged in these nefarious projects."†

To Clark he wrote: "Workman and Kerr have been discovered in an intrigue to corrupt the army and plunder the bank."‡ To a certain extent this was true, for Burr had written Wilkinson some months before that Workman was enthusiastic in their cause. Murray's testimony (cited below) also confirms this. As it was politic to compromise him, therefore, Wilkinson arrested Workman (together with Kerr) to be held for trial at Natchez. Bradford, editor of the *Orleans Gazette*, was also arrested, but was later released by Wilkinson.

For a month the city was kept in a state of extreme tension. Assured by Wilkinson that Burr with 7,000 men might appear at any moment, an outbreak was expected any day. Suddenly John Adair rode into town and announced that Burr would follow in three days, when it would appear whether Wilkinson's tyranny was to prevail. That very afternoon Adair was arrested and thrown into prison, and Wilkinson ordered detachments

* See Jefferson's message, in Richardson, *Messages and Papers*, vol. i., pp. 412-417.

† Martin, *History of Louisiana*, vol. ii., p. 281.

‡ McCaleb, *The Aaron Burr Conspiracy*, pp. 218-221.

|| *United States*, vol. iii., pp. 320-321. See, however, McCaleb, p. 225 *et seq.*, 237 *et seq.* and *passim*.

* As to the loyalty of the people, see Claiborne's *Journal*, pp. 321-339; and the proceedings of the Legislature as quoted in Gayarré, *History of Louisiana*, vol. iv., p. 177 *et seq.*

† Claiborne's *Journal*, p. 221.

‡ Clark's *Proofs*, note 71.

of troops to patrol the city.* Adair was denied the writ of *habeas corpus* and was hurried away to sea on the charge of being Burr's accomplice.

Though the date had long passed when Burr was expected and did not arrive, military and naval preparations went on just the same, gunboats being stationed near Natchez with instructions to destroy Burr's flotilla.† On January 7, 1807, at Wilkinson's request, the city council passed an ordinance requiring that every person entering New Orleans should be detained twenty-four hours and made to declare his age, name, business or profession, whence he came and motives of his journey; every vessel entering port should be detained the same length of time and a list of passengers confirming the above should be furnished; and every five days every citizen and hotel keeper should send to the mayor a list of those in their establishments.‡ On the 14th Wilkinson wrote to Claiborne that he thought it wise to ascend the river in the hope of anticipating Burr above Natchez and dispersing his forces there.||

Meanwhile, toward the middle of November of 1806, Graham arrived at Marietta and learned of Burr's trial

at Frankfort. Blennerhassett, who had been told by Burr that Graham was concerned in the plot, welcomed him with great cordiality and talked to him much more freely than wisely.* The evidence secured by Graham led him to go to Chillicothe, where the Legislature was in session, and on December 6, with the assistance of Lewis Cass and Governor Tiffin, he secured the passage of a law to prevent acts "hostile to the peace and tranquility of the United States within the jurisdiction of Ohio" and the appropriation of \$1,000 to enforce the provisions of the act.†

The last chance of stopping the conspirators before they entered the Mississippi was at Fort Massac. Beyond that point they could not easily be molested; but the President had reason to suppose that his proclamation arrived in ample time to stop the conspirators while they were still on the Ohio. Without waiting for the proclamation, Governor Tiffin called out the militia and seized most of the boats building at Marietta. But on the night of December 10-11 the conspirators, with Blennerhassett among them, succeeded in escaping down the Ohio with a large quantity of sup-

* Adams, *United States*, vol. iii., p. 324; McCaleb, *The Aaron Burr Conspiracy*, pp. 222-223; *Annals of Congress*, 10th Congress, 1st session, p. 573.

† Claiborne's *Journal*, p. 398.

‡ McCaleb, *The Aaron Burr Conspiracy*, pp. 230-231.

|| Claiborne's *Journal*, p. 426.

* See Graham's testimony in *Annals of Congress*, 10th Congress, 1st session, p. 486. See also Parton, *Life of Burr*, pp. 435-436.

† King, *Ohio*, p. 311; A. C. McLaughlin, *Life of Lewis Cass*, pp. 48-50; W. L. G. Smith, *Life and Times of Lewis Cass*, pp. 26-30; McCaleb, *The Aaron Burr Conspiracy*, pp. 243-245; Parton, p. 436.

plies.* Meanwhile Burr was on his way to Nashville. On his arrival there (December 14) he was asked by Jackson to explain his conduct and to disavow any designs against the Union, with which request Burr instantly complied.† His denials being accepted as satisfactory by Jackson, the boat-building was allowed to continue. Burr seemed to have no fear of personal danger. Even on December 19, when the President's proclamation reached Nashville, no attempt was made to seize him. On the 22d, therefore, having received back from Jackson \$1,725 in payment for the boats which he abandoned, Burr took two boats, bade farewell to Jackson, and began his journey down the Cumberland, taking with him a nephew of Mrs. Jackson.‡

Though he had escaped from Nashville, there were two more chances open to the Government to stop him before he should reach Natchez. He must go down the river past Fort Massac, garrisoned by a company of

the First Infantry under command of Captain Bissel, and past the militia at Chickasaw Bluff, afterward called Memphis. On January 1 Jackson received orders from the Secretary of War. He immediately sent secret messengers to Fort Massac, ordering the capture of all parties engaged in any expedition hostile to the United States. Bissel received these orders January 4 and replied that he had received neither the President's proclamation nor the orders of the War Department (though these had been sent November 27), but reported that on December 31 Burr "passed this way with about ten boats of different descriptions, navigated with about six men each, having nothing on board that would even suffer a conjecture more than that he was a man bound to market. He has descended the river towards New Orleans."* Jackson then dismissed the militia, being convinced that nothing was awry.† There had been a rumor, however, that he was on the march with Burr, and to put this at rest he wrote to a friend on January 15, 1807:

"Should you ever hear that I am embarked in a cause inimical to my country, believe it not; * * * or that I would not put any man out of existence that would name such a thing to me, without on the ground of discovering it to the proper authority, believe them not. And if Burr had any treasonable intentions in view, he is the basest of all human beings. I will tell you why.

* Parton, *Life of Jackson*, vol. i., p. 324.

† Buell, *History of Andrew Jackson*, vol. i., p. 201. Jackson's address to the militia is in Parton, *Life of Jackson*, vol. i., pp. 326-328.

* McMaster, vol. iii., p. 72; Adams, *United States*, vol. iii., p. 286; McCaleb, *The Aaron Burr Conspiracy*, p. 245 *et seq.* See also Jefferson's letter of January 3, 1807, in Ford's ed. of *Jefferson's Writings*, vol. ix., p. 1.

† Davis, *Memoirs of Aaron Burr*, vol. ii., p. 382; Parton, *Life of Jackson*, vol. i., p. 333; John Frost, *Life of Andrew Jackson*, p. 92; W. G. Sumner, *Andrew Jackson as a Public Man*, p. 22.

‡ Buell, *History of Andrew Jackson*, vol. i., pp. 197-198; Parton, *Life of Jackson*, vol. i., p. 322; Adams, *United States*, vol. iii., pp. 289-290. Jackson had instructed this nephew to abandon Burr if he discovered anything in his conduct of a nature hostile to the United States. See Parton, vol. i., p. 321.

He always held out the idea of settling Washita, unless a war with Spain; in that event he held out the idea that from his intimacy with the Secretary of War, he would obtain an appointment; and if he did he would revolutionize Mexico. * * * If he is a traitor, he is the basest that ever did commit treason, and being tore to pieces and scattered to the four winds of heaven would be too good for him.”*

Meanwhile on December 31, 1806, Burr's expedition emerged upon the waters of the Mississippi and on January 10 reached a place called Bayou Pierre, about 30 miles above Natchez. There he saw a copy of the newspaper containing the account of his doings and his letter to Wilkinson of July 29, and the moment he learned Wilkinson had denounced him he realized that escape was his only hope.† Cowles Meade, secretary and acting-governor of Mississippi, had called out the militia which began to assemble at Cole's (or Colle's) Creek, a few miles below Bayou Pierre. Meade sent several officers across the river to urge Burr to surrender, which on January 17 Burr agreed to do.‡ Meade then sent four men of unquestioned respectability and integrity, with a detachment of 30 men, to search the boats of the conspirators. In a letter dated January 19, 1807, Meade says

that “this mighty alarm, with all its exaggerations, has eventuated in nine boats and one hundred men, and the major part of these are boys, or young men just from school.”* After his surrender Burr was taken to Washington, the capital of the Territory, about seven miles from Natchez; but the court decided that there was no evidence showing he had committed any offence within the boundaries of Mississippi. Moreover, the supreme territorial court to which Burr must be brought was a court of appeals and had no original jurisdiction. The attorney-general, George Poindexter, therefore asked that Burr be sent to the Supreme Court of the United States, but Judge Rodney denied the request and released Burr on bail to appear when the supreme court of the territory convened. On being brought before this court, the motion was lost; the judges were divided and the grand jury threw out the bill.† Burr therefore demanded a release from his recognizance, but Judge Rodney refused this and bound him over to appear from day to day, which was an unheard of proceeding. The rumor was now spread that Governor Williams intended to seize Burr the minute he was discharged by the judicial authority; and it was known that a military patrol was on its way

* Parton, *Life of Jackson*, vol. i., p. 332.

† Adams (*United States*, vol. iii., p. 325), so states it, as does McMaster, but McCaleb (*The Aaron Burr Conspiracy*, p. 266) says the statement that Burr now for the first time learned of his betrayal is erroneous.

‡ Todd, *The True Aaron Burr*, pp. 38-39; Parton, *Life of Burr*, pp. 439-440; McCaleb, *The Aaron Burr Conspiracy*, p. 266 *et seq.*

* *American State Papers, Miscellaneous*, vol. i., p. 478.

† McMaster, vol. iii., pp. 74-75; McCaleb, pp. 271-274; Parton, pp. 440-441.

from New Orleans with that object.* Accordingly, after consulting his friends, Burr decided to go into hiding to await developments. On February 6, 1807, Governor Williams proclaimed that Burr, bound in \$5,000 to appear before the Territorial supreme court, was a fugitive from justice and had forfeited his bond, offering \$2,000 reward for his apprehension† From his hiding place he wrote to Governor Williams that he was ready to submit to the civil law whenever he could be assured the rights of a citizen. Furthermore he was not a fugitive from justice, since no indictment against him had been found; the recognition he gave was to appear in case an indictment was found, not otherwise.‡ After wandering about some time disguised as a Mississippi boatman, he attempted to reach the house of Colonel Hinson, an admirer of his on the Tombigbee. Late on the night of February 18, while inquiring the road to Hinson's at the Wakefield tavern near the Spanish frontier, Burr was recognized. The next morning he was arrested by Lieutenant Edmund P. Gaines, the commander at Fort Stoddert.¶ After

about three weeks' confinement at Fort Stoddert, he was sent to Richmond, Virginia, where on March 30, in a room in the Eagle Tavern, he was brought before John Marshall for examination and commitment. Meanwhile Burr's followers had also been arrested, but the majority were almost immediately released. Blennerhassett started for his home, but was arrested in Kentucky and conveyed to Richmond under indictments for misdemeanor and treason. Comfort Tyler, Davis Floyd and I. Smith, were indicted at Richmond, but after Burr's acquittal the prosecution entered *nolle prosequi* against their names. While Burr's followers were being tried, Louis Kerr and Judge James Workman were tried in the United States court at Natchez, but both were acquitted of the charges against them.*

Meanwhile on December 1, 1806, the second session of the Ninth Congress convened. The next day the President sent his message to Congress.† He affected to treat the conspiracy as most trivial. He had been informed, he said, of certain criminal attempts of private individuals to decide for their country the question of peace or war by commencing active and unauthorized hostilities, which he had, by proclama-

* *Annals of Congress*, 10th Congress, 1st session, pp. 492, 528, 643.

† McCaleb, p. 275.

‡ See his letter in McCaleb, p. 276.

¶ Hamilton, *Colonial Mobile*, pp. 347-348; Todd, *The True Aaron Burr*, pp. 39-40; Phelps, *Louisiana*, pp. 245-246; McCaleb, pp. 277-279; Parton, pp. 444-447. See also Pickett, *History of Alabama*.

* McCaleb, pp. 281-284.

† Richardson, *Messages and Papers*, vol. i., pp. 405-410; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 482-495; *Annals of Congress*, 9th Congress, 2d session, pp. 11-16; Benton, *Abridgment*, vol. iii., pp. 485-487.

tion as well as by official orders, promptly and efficaciously suppressed. Thus dismissed in a few words, Congress heard no more of the matter for six weeks. The month of December passed without producing a public display of uneasiness on the President's part. Outwardly he continued to rely on the patriotism of the people, but inwardly he was troubled with fears. Finally, weary with waiting and goaded on by the demands of the press for action, Randolph rose in the House on January 16 and moved a resolution asking the President what he knew about the Burr conspiracy and what he had done or what he meant to do regarding it.* Accordingly, on January 22, Jefferson responded in a long, carefully-written message giving an account of what had transpired in relation to Burr's undertakings and the measures which had been adopted by the authorities in the emergency.† Ignoring the letters of Daviess in January and February and Eaton's warning, Jefferson led the House to believe that not until September had he heard of Burr's actions; that not until the latter part of October did the objects of the conspiracy become

definitely known; and that since October no pains had been spared to bring the rogues to justice. He said that in Kentucky a premature attempt to bring Burr to justice without sufficient evidence for his conviction had created a popular impression in his favor and a general disbelief of his guilt. He spoke also of the orders to the governors of Orleans and Mississippi and to Wilkinson, of the action of the legislatures of Ohio and Kentucky, and of the illegal arrests of Bolman, Swartwout and Ogden. He complained that one had been liberated by a writ of *habeas corpus* and announced that the others, then on their way north by sea, might be expected to arrive any day.*

Giles immediately introduced a bill in the Senate suspending the writ of *habeas corpus* in certain cases for three months, and the necessity of this measure seemed so obvious that the rules were suspended and the bill passed the same day with only one vote against it.† On Monday, January 26, the bill was brought before the House, and Eppes, of Virginia, immediately moved its rejection.‡ The debate that followed was curious. Some quoted the President's message to prove that there was no danger to

* *Annals of Congress*, 9th Congress, 2d session, pp. 335-336.

† Richardson, *Messages and Papers*, vol. i., pp. 412-417; *American State Papers*, Miscellaneous, vol. i., pp. 468-471; McDonald, *Select Documents*, pp. 166-171; Ford's ed. of *Jefferson's Writings*, vol. ix., pp. 14-20; *Annals of Congress*, 9th Congress, 2d session, pp. 39-45; Benton, *Abridgment*, vol. iii., pp. 488-490. The documents accompanying the message are in *Annals*, pp. 1008-1019.

* Regarding this message see Adams, *United States*, vol. iii., p. 336 *et seq.*; McCaleb, p. 293 *et seq.*

† *Annals of Congress*, 9th Congress, 2d session, p. 44; Adams, *United States*, vol. iii., pp. 338-339; McMaster, vol. iii., p. 77.

‡ *Annals*, p. 403; Benton, *Abridgment*, vol. iii., p. 504.

public safety such as might call for a suspension of the *habeas corpus*, while others appealed to the same message to prove the existence of a wanton and malignant insurrection. John Randolph intimated that the President was again attempting to evade responsibility.*

Others asked if we were to accuse fellow-citizens of grave crimes and then deprive them of the right to appear in court and prove their innocence. The Constitution declared that "the privilege of the writ of *habeas corpus* shall not be suspended except when, in case of invasion or rebellion, the public safety shall require it." The country had not been invaded and there was no rebellion. We could not, therefore, constitutionally suspend the writ, particularly as the public safety did not require it. Accordingly, on its first reading, the bill was rejected by a majority of 113 to 19.†

Bolman and Swartwout had arrived at Washington, and in February the Attorney-General appeared before Judge Cranch of the district court, produced an affidavit of Wilkinson and a sworn statement of Eaton charging the two prisoners with treason, and asked for a warrant for their arrest. This was is-

sued, the men were arrested and an application promptly made to the Supreme Court for a writ of *habeas corpus*. The questions were whether the court had the initial right to grant such writs and if so, whether it could grant them against commitments by the circuit court. Justice Marshall denied it had such right either by common law or by express grant of Congress, and that the allegation of treason was material, as the writ would be useless without the power to go behind the lower court's action and decide the case on its merits. William Johnson dissented. On the marshal's return it was moved that Bolman be discharged, because no place of the commitment of the treasonable act was cited and because the evidence was insufficient, and the crime even if proved did not amount to treason. It was decided that there must be an actual levy of war, not merely the intention to do so, to constitute treason; that the evidence merely provided that a culpable attempt had been made against a power with which the United States was at peace. On February 21, therefore, the prisoners were discharged from custody. Ogden and Adair also were soon afterward liberated at Baltimore.*

On March 30 Burr was brought before Marshall for examination and commitment in a room in the Eagle

* *Annals*, pp. 418-419; Benton, p. 512; Adams, vol. iii., pp. 339-340.

† *Annals*, pp. 402-425, 502-590; McMaster, vol. iii., p. 78; Adams, vol. iii., pp. 339-340. See also Tucker, *Life of Jefferson*, vol. ii., p. 218; Benton, *Abridgment*, vol. iii., pp. 504-515, 520-542; McCaleb, pp. 295-296.

* McMaster, vol. iii., pp. 78-79; Adams, *United States*, vol. iii., p. 340; McCaleb, *The Aaron Burr Conspiracy*, p. 299.

Tavern at Richmond. The prosecution undertook to convict Burr of treason for the acts committed under his direction at Blennerhassett's Island, although at the time when these acts were committed Burr himself was in Kentucky. The prosecution based their case on Marshall's opinion when he discharged Bolman and Swartwout. Marshall had said:

"It is not the intention of the Court to say that no individual can be guilty of this crime who has not appeared in arms against his country. On the contrary,—if war be actually levied—that is, if a body of men be actually assembled for the purpose of effecting by force a treasonable purpose—all those who perform any part, however minute, or however remote from the scene of action and who are actually leagued in the general conspiracy, are to be considered as traitors. But there must be actual assembling of men for the treasonable purpose to constitute a levying of war."

The task before the prosecution was difficult, since not only was Burr well versed in the law himself, but he retained the ablest counsel at the bar, and moreover was before a friendly judge. First among his counsel was Edmund Randolph who was ably assisted by Judge Wickham, Charles Lee, Benjamin Botts and Luther Martin. On the other hand, the government was weakly represented. Some say that Attorney-General Cæsar A. Rodney was prevented from attendance by his duties or his health, while others assert he realized the hopelessness of the case and feared to measure strength with the defence.* At any rate, he left the case

in the hands of the District-Attorney, George Hay, who took his orders directly from Jefferson.* To assist Hay the President engaged the services of William Wirt, then but thirty-five years old. The third counsel, Alexander McRae, was inferior both in ability and in fact to either of his associates.

The first object of the government was to commit Burr for trial on the charge of treason as well as of misdemeanor, but on April 1 Marshall delivered an opinion on the question of commitment wherein he declined to commit Burr without stronger evidence than the affidavits of Eaton and Wilkinson. Accordingly Burr was committed only for misdemeanor, and on April 1 was again at liberty under bonds of \$10,000 to appear at the next session of the circuit court at Richmond on May 22.†

* The letters of Hay will be found in Ford's ed. of Jefferson's *Writings*, vol. ix., p. 52 *et seq.* For some other letters giving Jefferson's curious views of the conspiracy, see McCaleb, *The Aaron Burr Conspiracy*, p. 316 *et seq.* The reports of the trial will be found in David Robertson, *Reports of the Trials of Colonel Aaron Burr (late Vice-President of the United States) for Treason and for a Misdemeanor*, etc. (2 vols., 1808); Carpenter, *The Trial of Colonel Aaron Burr*, etc. (3 vols., 1807-8); J. J. Combs, *Trial of Aaron Burr for High Treason* (1867); *American State Papers, Miscellaneous*, vol. i., pp. 486-645; *Annals of Congress*, 10th Congress, 1st session, vol. i., pp. 385-778. There is much about the trial also in Kennedy, *Memoirs of William Wirt* (2 vols., 1849).

† McCaleb, pp. 310-311; Adams, *United States*, vol. iii., pp. 445-446. See also Todd, *The True Aaron Burr*, p. 42 *et seq.*; Parton, *Life of Burr*, p. 454 *et seq.*; Magruder, *Life of Marshall*, pp. 210-211, 214.

* McCaleb, p. 321.

Punctually on that day the trial opened and, with one short interruption, dragged on for five months. Late in the afternoon the jury was complete, John Randolph made foreman, and the jury sent to their room.* Another delay ensued when General Wilkinson, the most important witness for the government, failed to arrive from New Orleans. While awaiting his arrival, the jury took evidence and the court listened to the disputes of the counsel.† The district-attorney moved that the court hear witnesses for the commitment of Burr for high treason. The defence objected, but Marshall overruled the objection and directed the examination of witnesses to continue.‡ Burr on his side then moved for a subpoena *duces tecum*, directed to the President requiring him to produce certain papers which were deemed essential to a proper defence. This motion apparently was adopted to annoy and throw odium on the executive — a system which Burr's counsel rather avowed than concealed by declaiming against the despotism of the government and the prosecution of Burr.‖

A long argument followed, but on June 13 Marshall read an elaborate

decision in Burr's favor.* This decision considerably irritated Jefferson, for, while he expressed a readiness to send in papers that might be pertinent, he said that no court had the right to order him to appear on the stand as a witness.†

On June 15, in the midst of these controversies and consultations, Wilkinson arrived, was brought into court, sworn, and sent before the grand jury.‡ Wilkinson had not a friend; to break him down, to prove by his own confession that he was a pensioner of Spain and an accomplice with Burr, was the known object of the defence. Randolph, as foreman of the grand jury, ardently wished to indict Wilkinson for misprision of treason at the same time with Burr.‖ Burr and his counsel attempted also to secure an attachment against Wilkinson for contempt of court in that he had tried to obstruct the free course of justice by the suppression of witnesses.§ But on June

* For the complete opinion see *American Papers, Miscellaneous*, vol. i., pp. 613-619; *Annals of Congress*, 10th Congress, 1st session, vol. i., pp. 693-703. See also Magruder, *Life of Marshall*, pp. 216-219.

† Ford's ed. of *Jefferson's Writings*, vol. ix., pp. 59-60; Morse, *Thomas Jefferson*, pp. 283-284. See also Parton, *Life of Thomas Jefferson*, p. 669; McCaleb, *The Aaron Burr Conspiracy*, pp. 326-328; Parton, *Life of Burr*, pp. 474-475.

‡ For an account of his actions at this time, see McCaleb, *The Aaron Burr Conspiracy*, p. 329 *et seq.* See also Irving, *Life and Letters of Washington Irving*, p. 194 *et seq.*

‖ *Annals of Congress*, 10th Congress, 1st session, vol. i., p. 1397.

§ For the arguments, see *American State Papers, Miscellaneous*, vol. i., p. 491; *Annals of Congress*, p. 396 *et seq.*

* McMaster, vol. iii., p. 81.

† Parton, *Life of Burr*, p. 458 *et seq.*

‡ *American State Papers, Miscellaneous*, vol. i., pp. 611-612. See also Magruder, *Life of Marshall*, pp. 214-215.

‖ Adams, *United States*, vol. iii., p. 449. See also McCaleb, *The Aaron Burr Conspiracy*, pp. 322-325; Parton, p. 472 *et seq.*

24, to the disappointment of his enemies, Wilkinson escaped. On that day two indictments for misdemeanor and for treason were found against Aaron Burr,* two against Blennerhassett, and three against Jonathan Dayton, John Smith, Comfort Tyler, Israel Smith, and Davis Floyd for treason. Blennerhassett was still at large, but that night Burr was lodged in jail. On June 26 he was brought to the bar, pleaded not guilty, and was remanded for trial until August 3.†

On that day the trial began, but not before the 17th was a jury selected. On August 4 Blennerhassett arrived in Richmond and on August 10 was brought before the court. In the indictment of Burr were two counts: one setting forth that, moved and seduced by the instigation of the Devil, he had incited insurrection, rebellion, and war on December 10, 1806, on Blennerhassett Island, Virginia; the other charging him with traitorously intending to take possession of the city of New Orleans by force. The prosecution began by defining that overt act of levying war which the Constitution declares is treason. They defined it as "an assembly of armed men convened together for the purpose of effecting by force a treasonable design, which force is meant

to be employed before their dispersion." After this definition it was necessary to show that there had been treasonable design and that men had assembled to accomplish that design. To prove it, the government put on the stand Eaton,* Truxton, Peter Taylor, Colonel Morgan and his sons, Dudley Woodbridge, Blennerhassett's business partner at Marietta, and several others.† Nothing but Blennerhassett's own confession could place the matter in a clear light, and Burr feared that Blennerhassett would turn state's evidence. To prevent this, many of the more personal demands against Blennerhassett were paid by Joseph Alston, and Burr exerted himself in every way to conciliate him. On August 20 the defence suddenly moved to arrest the evidence, as no overt act, constituting treason under the Constitution, had been proven, and at the end of the argument lasting days the chief justice struck the prosecution dead. The defence claimed that the government had gone through all its testimony re-

* *American State Papers, Miscellaneous*, vol. i., p. 488; *Annals of Congress*, pp. 385-388.

† Adams, *United States*, vol. iii., pp. 454-459; McMaster, vol. iii., p. 83; Adams, *John Randolph*, p. 221; McCaleb, p. 332 *et seq.*; Parton, pp. 476-477.

* For a long time Eaton had been trying to secure the repayment by the government of the money expended by him in the war with Tripoli several years before. It is significant that at about this time \$10,000 were placed to his credit. Eaton claimed also that it was not until his public exposure of the plot had alarmed Wilkinson that the latter "thought of betraying his fellow traitor and becoming a patriot by turning State's evidence." See Prentiss, *Life of Eaton*, p. 405.

† For their evidence see *American State Papers, Miscellaneous*, p. 491 *et seq.*; McCaleb, *The Aaron Burr Conspiracy*, p. 341 *et seq.*; Parton, p. 485 *et seq.* It is too flimsy even to quote.

lating to the overt act charged in the indictment, but not a scrap of evidence proved that Burr was present when the act of levying war was committed on that island; indeed the prosecution admitted that Burr was at that time neither present nor within the jurisdiction of Virginia. The defence therefore moved that further evidence be excluded for four reasons: First, that Burr could not be a principal in the treason within the meaning of the Constitution, since he was not on the Island when the men assembled; second, that since the indictment charged him with levying war, it must be proved as laid, and the court could admit no evidence to show him guilty of the act by relation; third, that if he were a principal at all, he must be a principal in the second degree and that no evidence could be introduced to prove him such until the principal of the first degree had been convicted; fourth, that the court could hear no evidence the purpose of which was to connect Burr with the men on the Island until the latter had been proven guilty of treason, which had not been done. Every lawyer engaged in the case spoke on this vital point and exerted himself to the utmost. It was during this part of the trial that Wirt made the great rhetorical display comparing Burr and Blennerhassett.* On August 31

* For an excerpt from which, see *The South in the Building of the Nation*, vol. ix., pp. 386-389; Parton, *Life of Burr*, p. 488 *et seq.* See also Wirt's *Two Principal Arguments in the Trial of Aaron Burr* (Richmond, 1808).

the chief justice read his decision.* He said that since the indictment charged Burr with having levied war against the United States, it was necessary to make good the accusation — to prove the overt act, not by the establishment of other facts from which the jury could reason to the particular act charged, but by the testimony of two witnesses. There was not even one witness, and it was admitted by all that Burr was not on the Island nor within the jurisdiction of Virginia, nor at the home of Blennerhassett. Burr's presence was necessary to make him guilty of levying war, and all evidence to show him guilty was therefore irrelevant and could not be introduced. The prosecution thereupon abandoned the case and the jury entered a verdict of not guilty.†

This disposed of the charge of treason, but the charge of misdemeanor still remained. A new jury was empanelled and on September 9 the second indictment was read, the substance of the charge being that the accused was guilty of a misdemeanor in setting on foot a military enterprise against a foreign power with whom the United States was at peace. This was in violation of the fifth sec-

* For text see *American State Papers, Miscellaneous*, vol. ii., 621-636; *Annals of Congress*, 10th Congress, 1st session, vol. i., pp. 712-752. See also Magruder, *Life of Marshall*, pp. 226-229.

† Parton, p. 506 *et seq.*; McMaster, vol. iii., p. 84-85; Adams, *United States*, pp. 465-469; McCaleb, *The Aaron Burr Conspiracy*, p. 349 *et seq.*

tion of the Act of Congress of June 5, 1794, which provided that should any person within the jurisdiction of the United States begin or set on foot a military expedition against the territory of a foreign power in amity with the United States, he should, upon conviction, be held guilty of a high misdemeanor. After the prosecution had examined some of the witnesses, the court excluded all evidence to connect Burr with the men on the Island, because he was not on the Island on the day mentioned.* The second time the jury brought in a verdict of not guilty and so ended the trial.†

This was on September 15, but once more the whole matter was examined, and in the course of it Burr wrote to his daughter that Wilkinson "acknowledged very modestly that he had made certain alterations in a letter received from me — two erasures, etc., and then swore it to be a true copy."‡ The argument was on a mo-

* For the opinion of the chief justice, see *American State Papers, Miscellaneous*, vol. i., pp. 637-641; *Annals of Congress*, 10th Congress, 1st session, pp. 755-778.

† McCaleb, *The Aaron Burr Conspiracy*, pp. 355-357.

‡ Parton says the admission may condemn Wilkinson, but it does not exonerate Burr, because the general drift of the letter was not affected by the alterations; they "do not affect the fact that Aaron Burr * * * tried to induce a soldier to adopt a course of proceeding which was contrary to the known policy of government. * * * As long as the cipher-letter, as deciphered by the grand jury exists unexplained, so long must Aaron Burr be denied a place in the catalogue of those who have attempted great enterprises by honorable means alone."—Parton, *Life of Burr*, pp. 510-511.

tion to send Burr for trial to Mississippi territory where the overt acts were said to have been committed. The defence made two objections, saying that in the first place the circuit court of the United States was the only court that could take cognizance of the crime charged, and there were no circuit courts of the United States in the Territories, and that Burr could not lawfully be sent to Mississippi. In the second place, the verdict already rendered was a bar to further prosecution for different overt acts with the same design. After a new argument, the court decided that it had no power to commit Burr for trial in the Mississippi Territory. But that the verdict debarred further proceedings the court was not ready to assert, and, while holding the matter under consideration, declared that it would hear testimony concerning Burr's behavior within the United States. For five weeks the examination of witnesses went on and then Burr and Blennerhassett were committed for preparing, setting on foot, and providing means for a military expedition against the territory of a foreign nation with whom the United States was at peace. The district-attorney asked that Ohio be made the place of trial. After giving bail for their appearance, Burr and Blennerhassett were set at liberty, but in January of 1808, when the time for the trial arrived, neither appeared and their bail was forfeited. It is not likely they would have been prosecuted had they

appeared, for no petit jury had been summoned, and without the petit jury they could not have been tried.*

The subsequent careers of the conspirators are not without interest. Burr and Blennerhassett went to Baltimore after the trial, but as the people burned them in effigy on Gallow's Hill and as they feared for their personal safety, they fled to Philadelphia, whence in June of 1808 Burr fled to London. During the next few years he wandered over Europe,† but finally came back to New York, dying on Staten Island on September 14, 1836. Blennerhassett died in abject poverty

abroad.* Bolman attempted to practice medicine at New Orleans, but soon followed Burr to England, later returned to the United States during the banking excitement, and then again went to London. John Adair and John Smith resigned their seats in the Senate;‡ Swartwout subsequently became collector of the Port of New York, where he robbed the Treasury of over \$1,000,000, and Dayton and Ogden sank into obscurity.§ Wilkinson, "the double traitor, the bribe-taker, the corrupt agent of a foreign government," remained in command of the American army. He always claimed to be innocent and left behind him three volumes of memoirs "as false as any yet written by man"|| justifying his conduct.||

* See *The Latter Days of the Blennerhassetts*, in *Lippincott's Magazine* (February, 1879).

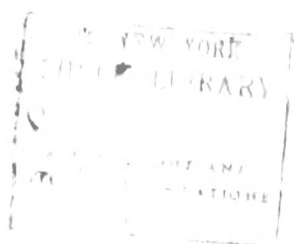
† For the debate in the case of Smith, see *American State Papers, Miscellaneous*, vol. i., pp. 701-703; Benton, *Abridgment of Debates*, vol. iii., pp. 554-560. With regard to Wilkinson see the same volume, pp. 642-674. See also *Annals of Congress*, 10th Congress, 1st session, vol. i., pp. 39-46, 56, 62-65, 80-81, 84, 86, 89, 90, 92-93, 98-101, 153-156, 164-167, 170, 179-180, 184-185, 324, 375-378, 1257, 1261, 1268, 1328, 1357, 1360, 1387, 1487, 2276, 2726, 2742, 2794.

‡ Roosevelt, *Winning of the West*, vol. iv., p. 307.

|| McMaster, vol. iii., p. 88.

* McMaster, vol. iii., pp. 86-87. See also Therése Blennerhassett-Adams, *The True Story of Herman Blennerhassett*, in the *Century Magazine*, vol. lxii. (1901); Safford, *Life of Blennerhassett* (1835); Davis, *Memoirs of Aaron Burr* (1836); Green, *The Spanish Conspiracy* (1891); Gillmore, *Advance-Guard of Western Civilization* (1887); Roosevelt, *Winning of the West*, vol. iv.; Alfred Lewis, *American Patrician, or The Story of Aaron Burr* (1908); Isaac Jenkinson, *Aaron Burr* (1902); W. H. Venable, *Dream of Empire, or The House of Blennerhassett* (1901); S. P. Orth, *Five American Politicians* (1906).

† For his movements in Europe, see Davis, *Memoirs of Aaron Burr*, vol. ii., p. 410 *et seq.*; McCaleb, *The Aaron Burr Conspiracy*, chap. xiii.; Todd, *The True Aaron Burr*, p. 46 *et seq.*; Parton, *Life of Burr*, chaps. xxvii.-xxxii.





*THE "RUNNING FIGHT" BETWEEN THE WASP
(AMERICAN) AND FROLIC (BRITISH)*

From the painting by William Steeple Davis.

THE "RUNNING FIGHT" BETWEEN THE WASP
(AMERICAN) AND FRODO (BRITISH)

From the pen of William Steacie Davis.

LECTURES
ON THE
GROWTH AND DEVELOPMENT
OF THE
UNITED STATES



Edited by EDWIN WILEY, M.A., Ph.D.
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SERIES NINE

LECTURES THIRTY-NINE AND FORTY (Part 1)

The Jeffersonian Era: Democracy and Nationality, 1801—1829

(Continued)

- 39. Neutrality and the Embargo
- 40. The War of 1812 (Part 1)



CHAPTER IX.

1805-1807.

THE DISPUTE WITH FRANCE AND ENGLAND REGARDING NEUTRALITY.

French Decrees and British Orders in Council respecting neutral trade — The cases of the *Polly*, the *Mercury*, and the *Essex* — Memorials to Congress — Passage of the Non-importation Act — The case of the *Leander* and the *Richard* — The right of impressment — Attempts to adjust the dispute — The *Aurora*, *Cambrian*, and *Driver* — Establishment of European blockade by England — Promulgation by Napoleon of the Berlin Decree — Negotiation of a treaty with England — The British Order in Council of January 10, 1807 — The attack of the *Leopard* on the *Chesapeake* — Jefferson's proclamation — Measures for defence — Opinions of foreign ministers — Effect of the news in England — Correspondence between Monroe and Canning — Spanish attacks on American commerce — Enforcement of the Berlin Decree — Bombardment of Copenhagen — The British Orders in Council of November 11, 1807 — Napoleon's Milan Decree — Opinions of foreign ministers on war.

The restrictions laid upon the neutral commerce of the United States gave Jefferson cause for much worryment. On February 1, 1793, France declared war against England, following up that declaration by throwing open all her colonial ports to neutral commerce; but England retaliated by making a treaty with Russia to stop all neutral trade with France.* In May of 1793 France struck back by ordering all neutral ships to be detained and whatever property they contained belonging to the enemy to be seized.† England then began to enforce the treaty with Russia and in June of 1793 ordered her warships to bring into port such neutral ships as were found to carry flour, corn and meal destined for French ports. On

November 6 the British government issued a new order in council directing all British warships to seize and send to port for condemnation every neutral ship they should meet taking provisions to a French colony or bringing away the produce of a French colony. These orders were kept secret for several weeks, until the whole of American commerce with the Antilles and all American vessels found on the high seas laden, in whole or in part, with the produce of the French colonies or goods intended for French colonial use, were captured and sent to British harbors, where they were condemned by British admiralty courts. France then laid an embargo on the port of Bordeaux, and at the end of 1793 more than 100 American ships were in French hands.* Congress then laid the Em-

* The British orders, French decrees, acts of Parliament, etc., are given in Madison's report of December 21, 1808, and printed in *American State Papers, Foreign Relations*, vol. iii., p. 262 et seq.

† Channing, *The Jeffersonian System*, p. 196.

* Adams, *United States*, vol. ii., pp. 322-323; McMaster, vol. iii., pp. 220-221.

bargo of 1794 and the people were prepared to resist foreign encroachments with war; but England somewhat revised her orders, instructing her naval officers to capture and send to port only such vessels as were trading direct between French West Indian and European ports. France, however, did not revoke her orders; in 1794 she declared that free ships did not make free goods and that the property of an enemy might be taken from a neutral ship; in 1795 she modified this, exactly reversing her position and declaring that no articles should be considered contraband unless so specified in the treaty of 1788; but in 1796 she declared that neutrals would be treated by France in the same manner as they allowed themselves to be treated by England.* In 1797 France decreed that English goods and naval stores might be taken from American ships,† and in January of 1798 authorized the capture of neutral vessels laden even in part with British goods, also closing every port of France to such vessels as had entered or touched at British ports.‡ England retaliated by adding to the French West Indies the colonies of Holland and Spain, so that no neutral ship was permitted to trade direct with Holland, Spain or France. In 1799, as this order was successfully

evaded, England declared the whole coast of Holland under blockade.*

In 1800 and 1801 three cases were decided by British courts in which direct trade was defined. The first was the case of the *Polly*, which was decided April 29, 1800. The *Polly*, an American-owned ship, had been searched and seized while on her way from Marblehead to Bilbao. The captor claimed that the cargo of the *Polly* consisted of boxes of Havana sugar and hogsheads of Caracas cocoa; that these articles were produced in Spanish colonies; that they were being carried to a Spanish port; and that the *Polly* was therefore engaged in direct trade between Spain and Spanish colonies and was liable to capture. The owners admitted that the cargo had been brought from Havana, but they proved that the goods had been entered at the custom house at Marblehead; that duty had been paid; that the produce had been landed on the wharf and the ship put upon the stocks for repair; that new insurance had been taken on the cargo; that a new clearance had been obtained; and that a new voyage had been begun in August, three months after the cargo had been landed. Sir William Scott, better known as Lord Stowell, in defining importation into a neutral country, considered it sufficient if the goods had been landed and duties paid, and ruled that the defendants had given sufficient proof of

**American State Papers, Foreign Relations*, vol. iii., pp. 285-287; McMaster, vol. iii., p. 221.

†*American State Papers, Foreign Relations*, vol. ii., pp. 30-31 and vol. iii., pp. 287-288.

‡*Ibid*, vol. ii., pp. 151, 182 and vol. iii., p. 288.

* McMaster, vol. iii., p. 222.

this to answer the fair demands of the court. He therefore restored the ship and cargo to the claimants.* The second case was that of the *Mercury*, which differed somewhat from that of the *Polly*, her cargo not being landed and no duties paid. Accordingly she was condemned, since she had not made a bona fide importation and re-shipment.

In 1803 when England and France engaged in war the American commercial interests assumed that the recent interpretation of direct trade would continue to hold good; and therefore engaged extensively in commerce between the belligerents and their colonies to so great an extent that by 1805 almost the whole carrying trade of Europe was in American hands.† But Great Britain could not sit idly by and see the very restrictions she had laid on the colonies of the enemy bring in enormous profits to the neutrals without inflicting any real injury upon the enemy; and she therefore determined to destroy this commerce by paper blockades and by admiralty decisions. Accordingly she blockaded Guadalupe and Martinique in January of 1804, Curaçao in April, and the Straits of Dover and the English Channel in August. In May of 1805 another blow was struck at neutral commerce in the case of the *Essex*.

This vessel took on a cargo at Barcelona, landed it at Salem, gave bonds to pay the duty in case the goods were not exported, made repairs and reloaded with the same cargo, and cleared for Havana. In principle the case was exactly that of the *Polly*, but though the case was tried in the same court and before the same judge (Sir William Scott), the previous decision was reversed; and in its final decision in July the court said it was the *intent* of the shippers which was the determining factor in the case and that the ship's having stopped and unloaded in the United States made no difference whatsoever, as the same goods were sent to Cuba, making the voyage *direct in intent*. The ship and the cargo were therefore condemned.*

In September news of these proceedings reached the United States and threw the whole commercial world into the wildest confusion. Meetings of protest were held and complaints of British depredations were sent to the Secretary of State. When Congress met, the merchants of New York sent a long memorial to that body†—an example soon followed by every shipping town along the coast: Newburyport, Salem, Boston, New Haven, Philadelphia, Baltimore, Norfolk, Petersburg, Charles-

* McMaster, vol. iii., p. 223; Robinson, *Admiralty Reports*, vol. iii., p. 361; Chadwick, *Relations of Spain and the United States*, p. 90.

† McMaster, vol. iii., p. 225.

* Robinson, *Admiralty Reports*, vol. v., p. 365; McMaster, vol. iii., pp. 226-227. See also Madison, *An Examination of the British Doctrine*, etc.; Chadwick, *Relations of the United States and Spain*, pp. 91-92.

† *Annals of Congress*, 9th Congress, 2d session, pp. 805-813.

ton, Portsmouth and others.* While all condemned and complained of the paper blockades, the impressment of sailors, and the ruinous consequences of the new principles adopted by the admiralty courts, some went so far as to talk of war.†

When Congress convened in December of 1805, the resolutions and petitions were referred to a committee, of which John Randolph was chairman, but the committee had not even made a report when toward the latter part of January of 1806 it was discharged and the House organized itself into a Committee of the Whole to take the matter under consideration.‡ The House took under consideration also the non-importation resolution of Andrew Gregg, providing that because Great Britain impressed our sailors, searched our ships and proscribed our trade, no goods, wares or merchandise grown or made in England or any English colony or dependency should be imported into the

United States after a certain date.* Among other resolutions sent to the Committee of the Whole was that of Nicholson, designed to stop the importation of articles made of tin, brass, hemp or flax and of silk, of woolen cloth above a certain price, of all kinds of woolen hosiery, of ready made clothing, window glass, pictures, paper cards, prints, porter, ale and beer.† Gregg's resolution was considered first,‡ but after debate it was laid on the table and Nicholson's was considered.§ After four days of debate, this resolution was reported to the House, was accepted by that body, and a bill conforming to the principles of the resolution reported passed and sent to the Senate. Finally on April 15, by a vote of 19 to 9, the Senate passed the bill,§ forbidding direct or indirect importation from Great Britain or her dependencies of a long list of goods after November 15, 1806,¶ giving customs collectors the right to

* *Annals of Congress*, 9th Congress, 1st session, pp. 412-413.

† *Ibid.*, pp. 449-451.

‡ For the debate, see *Annals*, pp. 537-574, 575-698, 700-798, 801-823, 851-878; Benton, *Abridgment*, vol. iii., pp. 419-465.

§ Schouler, *United States*, vol. ii., pp. 119-122; McMaster, vol. iii., pp. 231-234.

¶ *Annals of Congress*, 9th Congress, 2d session, pp. 238-239.

¶ All articles of which tin and brass (tin sheets excepted), leather, silk, hemp or flax, were the materials of chief value; woolen cloths, invoiced at more than five shillings per yard; woolen hosiery of all kinds; window-glass and manufactures of glass; silver and plated ware; paper of every description; mats and ready-made clothing; millinery; nails and spikes; pictures and prints; playing cards; ale, porter and beer.

* *Annals*, pp. 814-843, 890-913.

† McMaster, vol. iii., pp. 227-229; Lossing, *Field-Book of the War of 1812*, p. 141. The effects of commercial restrictions may be studied in Gallatin's report of December 10, 1810, *American State Papers, Finance*. Further information is given in *An Address to the Citizens of Massachusetts on the Causes and Remedy of Our National Distress, by a Fellow-Sufferer* (1808); *Speech of William B. Giles on the Motion of Mr. Hillhouse to Repeal the Embargo Laws* (1808); Madison's Report on Foreign Affairs, December 21, 1808, in *American State Papers, Foreign Relations*, vol. iii., p. 262; the *Memorials of Merchants of Boston, Philadelphia, and Baltimore* (January and February, 1886).

‡ Schouler, *United States*, vol. ii., p. 118.

search anywhere for prohibited goods, fixing penalties and prescribing an oath for merchants, sail masters, etc.* On April 18 the President approved the bill.†

But this action of Congress had little effect, for on April 25, 1806, only a few days after the President had signed the act, a British vessel, the *Leander*, 50, scarcely two miles outside of Sandy Hook, attacked the sloop *Richard* from Brandywine, firing several shots at her, one of which beheaded the helmsman, John Pierce.‡ The *Richard* escaped, however, and brought the news to New York, where in a short time the wildest excitement prevailed.¶ Accordingly, on May 3, 1806, Jefferson issued a proclamation demanding the arrest of the captain of the *Leander*, Henry Whitby, and commanding the *Leander* and two other vessels, the *Cambrian* and the *Driver*, to depart from our shores and never again to enter our ports.§

* Schouler, *United States*, vol. ii., pp. 122-123.

† *Acts of Congress*, 9th Congress, 1st session, chap. xxix.; *United States Statutes-at-Large*, vol. ii., p. 379; *Annals of Congress*, 9th Congress, 2d session, pp. 1259-1262.

‡ Others state that the *Leander* fired at some passing vessels and that one of her shots, striking a wave, ricocheted over the stern of the *Richard*, killing Pierce in its course. See Channing, *The Jeffersonian System*, p. 188. See also Cooper, *Naval History*, vol. ii., p. 12; Maclay, *History of the Navy*, vol. i., p. 309.

¶ The public indignation was increased when it became known that Captain Whitby was honorably acquitted. Lossing, *Field-Book of the War of 1812*, p. 147, note; Schouler, *United States*, vol. ii., pp. 132-133; McMaster, vol. iii., p. 238.

§ Richardson, *Messages and Papers*, vol. i., pp. 402-404; *Annals of Congress*, 9th Congress, 2d

But the right of neutrals was not the only difficulty existing between England and our country. Perhaps the most galling was what John Quincy Adams calls the claim to the "right of man-stealing from the vessels of the United States." For many years England had claimed the right to search foreign vessels for her seamen. As early as 1790 she began the practice of dragging sailors indiscriminately from the decks of American ships, and ever since had carried on this practice in every portion of the civilized world with impunity.* When Thomas Pinckney was sent as minister to Great Britain he was instructed to insist that American ships made American seamen. If it were apprehended that British subjects were being harbored on American vessels, British officers might be allowed to board the American vessels to count the crew; but no press-gang should be allowed to board American vessels until the master had refused to deliver the supernumeraries and until an American consul had been summoned to witness the proceedings. But war with France followed almost immediately, and the impressments continued. In 1793 consuls were permitted to issue certificates of citizenship to native born citizens of

session, pp. 685-686; Ford's ed. of *Jefferson's Writings*, vol. viii., pp. 445-446. See also Morse, *Thomas Jefferson*, p. 289.

* Schouler, *United States*, vol. ii., pp. 115-116; Lossing, *Field-Book of the War of 1812*, p. 142.

the United States; but this was denied to be a consular power, was declared to be open to serious abuses, and the papers were not respected. Even the Jay Treaty of 1794 was silent on the subject of impressment and on May 28, 1796, Congress passed an act instructing collectors of the ports to issue protections to seamen who were citizens of the United States, to keep a register, and to report once a quarter. Furthermore, the President was authorized to appoint two agents to reside abroad who were to inquire into the situation of impressed American sailors and report to the Secretary of State. Between 1796 and 1801, under the provisions of this act, 35,900 seamen were registered and the release of 1,940 was demanded by the agent in London.* In spite of this, however, the certificates were disregarded, and hundreds of seamen were impressed by the British and were never restored.† What

made this worse was the fact that there were so many desertions from the English navy. England claimed that she had the right to recover her deserters, which was not denied, but she went too far in trying to fill the places of deserters from the ranks of native American seamen. Naturalization papers and protections were disregarded, such men as caught the fancy of the officers being taken off.‡

to the right and left to make every ship that was running in heave to, or wait until we had leisure to send a boat on board 'to see,' in our lingo, 'what she was made of.' I have frequently known a dozen and sometimes a couple of dozen ships lying a league or two off the port, losing their fair wind, their tide, and, worse than all, their market, for many hours sometimes the whole day, before our search was completed."—Basil Hall, *Voyages and Travels in the United States*, p. 114.

* Lossing, *Field-Book of the War of 1812*, p. 143 *et seq.*; McMaster, vol. iii., pp. 242-243. See also Channing, *The Jeffersonian System*, p. 171 *et seq.* The British view will be found in James Stephen, *War in Disguise; or the Frauds of the Neutral Flags* (1805), and Alexander Baring, *An Inquiry into the Causes and Consequences of the Orders in Council and an Examination of the Conduct of Great Britain towards the Neutral Commerce of America* (1808), which is supplemented by the *Speech of Henry Brougham before the House of Commons in support of Petitions against the Orders in Council* (1808). Other pamphlets issued about this time were: *A True Picture of the United States of America, being a Brief Statement of the Conduct of the Government and People of that Country towards Great Britain, by a British Subject* (1807); *Old England and America against France and all Europe*, by Patrioticus, advocating a union between England and the United States. A catalogue of the British and French misdeeds will be found in W. J. Duane, *The Law of Nations*, pp. 71-73; and in Madison's paper, *An Examination of the British Doctrine which Subjects to Capture a Neutral Trade not open in Times of Peace* (1806) which will be found in his *Works* (Congress

* McMaster, vol. iii., pp. 240-242.

† See *American State Papers, Foreign Relations*, vol. ii., pp. 471-474, 593-595. No American citizen dared leave port without a certificate of citizenship describing his "eyes and nose and mouth and chin, the color of his hair and complexion, and the marks and scars about his person—like the advertisement of a runaway slave."—Adams, *New England Federalism*, p. 179. Basil Hall, a midshipman on the British frigate *Leander*, says that the British officers impressed every American seaman "whom they had reason, or supposed or said they had reason, to consider" a British subject, "or whose country they guessed from dialect or appearance." "Every morning," says Hall, during the time the *Leander* was on blockade duty at New York, "we set about arresting the progress of all vessels we saw, firing off guns

Both countries expressed the utmost anxiety to find a remedy. The American minister, Rufus King, believed that the time had arrived when an agreement to stop the evil could be reached. But just at this time Pitt retired from office, Addington took his place, Lord Hawkesbury became foreign secretary, and all the parlor talk went on without in the least changing the state of affairs.* Furthermore, British sailors were openly encouraged to desert; and so widespread did this custom become that Edward Thornton, the British chargé, declared that in every American port this means was adopted to frighten British vessels from our shores and to prevent them from coming into competition with American shipping. The Administration was little disposed to stop the abuse, Virginia being even allowed to pass an act providing that whoever delivered up or caused to be delivered up any free person for transportation beyond the sea, was guilty of a felony and on conviction should be sentenced to ten years' imprisonment; furthermore, if the person so surrendered should be put to death, the felon should suffer death

for having aided and abetted a murder.*

Thus matters stood in 1803, when the peace of Amiens was broken and France and England again went to war. Knowing that war was coming, King early in 1803 renewed negotiations and was almost successful in his efforts. But when it came to signing a convention,† the British representative insisted that the Narrow Seas should be explicitly exempted from the provision against impressment. To this King would not consent, and thus the negotiation failed. Shortly afterward King was succeeded by James Monroe as minister to England. Monroe was to begin negotiations by offering a commercial convention on a plan suggested by Madison‡. The first article forbade impressment on the high seas; another prescribed the methods of searching a vessel; a third gave a list of such articles as were to be considered contraband of war; a fourth defined a valid blockade; a fifth denied protection to naval deserters; and a sixth denied protection to deserters from the army. The convention was to remain in force eight years. Monroe laid this matter before Lord Hawkesbury, but before

ed.), vol. ii., pp. 229-391. See also the list of pamphlets, etc., in Winsor, *Narrative and Critical History*, vol. vii., pp. 520-521. In this connection, see also B. Sulte, *The Causes that Led to the War of 1812*, in *Transactions of the Ottawa Literary and Scientific Society*, no. iv., pp. 7-16 (1907).

* For the correspondence, see *American State Papers, Foreign Relations*, vol. ii., pp. 486-506.

* McMaster, vol. iii., p. 244.

† The text of the proposed convention is in *American State Papers, Foreign Relations*, vol. ii., pp. 584-585; *Annals of Congress*, 10th Congress, 1st session, vol. ii., pp. 2354-2359.

‡ See *American State Papers, Foreign Relations*, vol. iii., pp. 82-89. See also Madison's letter to Monroe, in *Annals of Congress*, 9th Congress, 2d session, pp. 783-791.

he could accomplish anything the ministry changed; Addington was succeeded by Pitt, Lord Hawkesbury was succeeded by Lord Harrowby, and the new secretary refused to consider the proposed convention.* Monroe was then called to Madrid by the quarrel between Charles Pinckney and Cevallos, and did not return to England until July of 1805. When he did return he found that the vice-admiralty court of Newfoundland had condemned the *Aurora*, that the *Essex* case had been decided, and that Lord Harrowby had been succeeded by Lord Mulgrave as Secretary of Foreign Affairs.

The case of the *Aurora* was the result of the action of a New York marine insurance company. The company complained of large losses because French frigates and privateers captured ships on which it had risks. The company requested the British consul to have an English ship stationed off the port to keep the Frenchmen away. Two vessels were sent and about the middle of June of 1804 the *Cambrian*, a 44, and the *Driver*, an 18, anchored near two French frigates then in port. Shortly afterward a vessel named the *Pitt* entered the Bay and was searched by an armed party from

the *Cambrian*. Twenty sailors were impressed and when the revenue and health officers attempted to board the *Pitt* they were driven off by armed sailors.* In condescending to apologize for this outrage, the captain of the *Cambrian* (Bradley) said that his people were ignorant of the law and did not know that an English ship ever could be subject to the authority of the United States; but he would not release the impressed sailors until the British consul informed him that he must. The United States then complained; the captain was recalled† (and promoted); and Congress passed the act of March 1805 to preserve peace in the ports and harbors of the United States.‡ When this law was sent to Monroe to be explained to the British ministry, he was instructed to protest against the decision in the *Aurora* case. While Spain was at war with Great Britain, this ship had brought a cargo of Spanish goods from Havana to Charleston, landed the produce, paid the duty, re-shipped the cargo, received back the duty with the exception of 3½ per cent. retained on articles exported after importation, and sailed for Bar-

* See George L. Rives, *Correspondence of Thomas Barclay*, p. 167.

† Monroe was informed by Lord Harrowby in 1804 that the captain was recalled on account of the *Pitt* incident (Monroe's *Writings*, vol. iv., p. 247), but this action was taken because Captain Bradley allowed the French frigates to escape by way of Hell Gate and Long Island Sound.

‡ *Annals of Congress*, 8th Congress, 2d session, pp. 1694-1698.

* Gilman, *Life of Monroe*, p. 93. For the correspondence between Monroe, Madison and Harrowby see *American State Papers, Foreign Relations*, vol. iii., p. 81 *et seq.*; *Annals of Congress*, 10th Congress, 1st session, vol. ii., p. 2381 *et seq.*

celona, Spain. On the way she was captured by an English cruiser, sent to Newfoundland, and condemned on the ground that the landing of her cargo and the paying of the duty did not break the continuity of her voyage, which, being thus continuous, was direct and illegal. Should this decision be confirmed by the court of appeals, it would bring untold hardship and loss to American trade. But the decisions of the Newfoundland court in the cases of the *Essex* and *Mercury* had been affirmed, and by the time Monroe protested to Lord Mulgrave regarding the *Aurora* this had become the settled policy of England.*

The old troubles were gone over time and again by Monroe, but nothing definite could be agreed upon. In January of 1806 Pitt died, and in February he was succeeded by Charles James Fox.† To him Monroe again presented the complaints, but was again subjected to the same irritating delays. In April of 1806 the Non-importation Act was passed by Congress and William Pinkney joined Monroe to settle all matters of difference between the United States and Great Britain.‡ On May

17, 1806, while Monroe was awaiting the arrival of Pinkney, Fox served formal notice on Monroe that England had declared the whole coast of Europe, from the Elbe in Germany to the Brest in France (about 1,000 miles), in a state of blockade.* The coast between the Ostend and the Seine had already been blockaded, no neutral ship being allowed into the ports and rivers of this region for purposes of trade. In any other port or river from the Brest to the Elbe neutral ships might still go, if they did not come from or did not intend to go to a port then in the possession of England's enemies. American vessels, therefore, might continue to enter the Brest or Embden, Amsterdam or the Elbe; but their cargoes must have been made or grown in the United States or be British products. Monroe was greatly alarmed and pressed for a settlement of affairs, which was again postponed. Hardly had Pinkney reached London (in June) when Fox died and was succeeded by Canning. Meanwhile the President instructed the envoys to enter into no treaty regarding impressment which did not absolutely secure American citizens against any and

* McMaster, vol. iii., pp. 246-247.

† Monroe to Madison, *American State Papers, Foreign Relations*, vol. iii., p. 111; *Annals of Congress*, 10th Congress, 1st session, p. 2432.

‡ McMaster, vol. iii., pp. 247-248. See also Madison's letter to Monroe, May 17, 1806, Madison's *Works* (Congress ed.), vol. ii., p. 223; Schouler, *United States*, vol. ii., p. 153; Gilman, *James Monroe*, p. 96. For the letter of credence,

see *American State Papers, Foreign Relations*, vol. iii., pp. 119-124; *Annals of Congress*, 10th Congress, 1st session, pp. 2452-2465.

* Monroe to Madison, May 17, 1806, *American State Papers, Foreign Relations*, vol. iii., pp. 124-125; *Annals of Congress*, pp. 2466-2468.

every exercise of this odious claim of Great Britain.*

But in the meanwhile Napoleon had not been an idle spectator of events. By the battles of Austerlitz and Jena he prostrated the continental powers; but this gave him no means of securing and extending his conquests against the one nation that had successfully resisted his might. While the whole world was anxiously awaiting his next step, he (on November 21, 1806) signed the paper now famous as the Berlin Decree and constituting the first step in the "Continental System."† Napoleon charged England with having violated the law of nations, with impressment of non-combatants, with seizing private property, etc., and declared that until such actions were discontinued the entire coast of the British Isles would be in a state of blockade. All trade with England was prohibited, property belonging to Englishmen and all products of England or her colonies were lawful prize, and no vessel which had entered or touched at a British port was to be allowed to enter a French continental or colonial port.‡ From the terms of this decree it was evident that the neutral trade of Amer-

ica would be affected (to the full extent of Napoleon's power to enforce so prodigious an edict) quite as injuriously as it had been by the British Orders in Council; and, as the American trade was the only trade worthy of consideration, the decree was practically an ultimatum to the United States.

The promulgation of this decree almost put a stop to the negotiations for a treaty with Great Britain. The British commissioners informed Monroe and Pinkney that no treaty could be made until it was definitely known what the United States would do, and that, unless the United States were willing to uphold her neutral rights against France, England would not place herself in such a position that she could not retaliate against France in kind.* Thus Monroe and Pinkney were between the alternatives of foregoing a treaty with Great Britain or engaging in war with France.† Nevertheless, the negotiations continued until December 27, when the treaty was put into writing.‡ It consisted of twenty-six articles. The permanent and unexpired provisions of the Jay treaty were confirmed and the same stipulations made respecting the East India trade, the rights of neutrals and

* See his letter to Monroe, Ford's ed. of Jefferson's *Writings*, vol. ix., p. 36. See also Channing, *The Jeffersonian System*, p. 203.

† *American State Papers, Foreign Relations*, vol. iii., pp. 289-290; *Annals of Congress*, 9th Congress, 2d session, pp. 927-928; Lyman, *Diplomacy of the United States*, vol. i., p. 407.

‡ McMaster, vol. iii., pp. 249-250; Channing, *The Jeffersonian System*, p. 198.

* See Jefferson's letter to Livingston and Lincoln in Ford's ed. of Jefferson's *Writings*, vol. ix., pp. 37-38.

† McMaster, vol. iii., pp. 250-251; Schouler, *United States*, vol. ii., pp. 154-155.

‡ For correspondence regarding the treaty, see *American State Papers, Foreign Relations*, vol. iii., pp. 136-147; *Annals of Congress*, 10th Congress, 1st session, vol. ii., pp. 2476-2507.

belligerents, the appointment of consuls, the surrender of criminals, the equalization of duties, and the regulation of privateers. The article relating to colonial trade provided that European merchandise might be taken to any colony of an enemy of England not blockaded, if such merchandise had been landed previously in the United States; if it had paid the ordinary duties on similar articles so imported for home consumption; if upon re-exportation it and the vessel transporting it were the *bona fide* property of American citizens; and if, after the drawback, it remained subject to a duty equivalent to not less than 1 per cent. *ad valorem*. All other articles, save contraband, the growth and produce of enemies' colonies, might be re-exported if a duty of not less than 10 per cent. *ad valorem* had been paid to the United States.* It was agreed that the United States should have a circuitous trade with the colonies of nations at war with Great Britain during existing hostilities; that the limits of maritime jurisdiction should be extended to five miles from the coast; that shipwrecked sailors of each nation should be cared for; that advantages in trade or navigation granted by either party to any nation should be conferred upon the other; and that all laws relating to the African slave trade should be communicated to each

other.* On the subject of impressment, however, the British commissioner refused to give any satisfactory assurances, beyond a diplomatic memorandum that British officers had been instructed to exercise the utmost caution in their impressments.† Yet, under all the circumstances, the American envoys deemed it most advisable to sign the treaty, which they did on December 31.

But just as they were about to sign the treaty, a note from the king was received saying that, unless Napoleon had rescinded the Berlin Decree or the United States had guaranteed to defend her neutral rights before the treaty was returned from the United States, the signatures of the British commissioners would not be binding and Great Britain would counteract the Decree by such measures as might be deemed necessary.‡ It was too late to withdraw, however, and Monroe and Pinkney signed the treaty.¶ The

* Monroe's justification will be found in his *Writings*, vol. v., pp. 88, 130-132. Cf. *American State Papers, Foreign Relations*, vol. iii., pp. 173-183; Pinkney, *Life of Pinkney*, pp. 135-136; *Correspondence between the President and Monroe* (Boston, 1808), which was later issued at Portland, Me. (1813) as *To all who are honestly seeking after Truth. Mr. Monroe's Letter * * ** also the treaty itself and documents connected with it.

† *American State Papers, Foreign Relations*, vol. iii., p. 140.

‡ *Ibid.*, vol. iii., pp. 151-152. See also Schouler, *United States*, vol. ii., p. 156; Lossing, *Field-Book of the War of 1812*, pp. 150-151.

¶ McMaster, vol. iii., p. 251. A fierce attack from the British point of view on Monroe's treaty will be found in the pamphlet by Thomas P. Courtenay, entitled *Observations on the American Treaty in Eleven Letters by Decius* (1808).

* *American State Papers, Foreign Relations*, vol. iii., p. 147-151; *Annals of Congress*, pp. 2523-2534.

British commissioners had promised in the king's name that Great Britain would not retaliate for the Berlin Decree unless the United States failed to resist;* and it would have been only honorable for the king to have waited until the United States had had time to act. But the ink was hardly dry on the treaty before the king issued Orders in Council (January 10, 1807) which, if enforced, were nearly as ruinous as the Berlin Decree.† Neutral vessels were prohibited on pain of capture and confiscation from trading between two ports both of which belonged to France or any of her allies or were in her possession.‡ This struck a heavy blow at American commerce, but to make matters still worse, the order declared that England had the unquestioned right to enforce "the same prohibition of all commerce with France which that power vainly hoped to effect against the commerce of his Majesty's subjects." The British king, however, refrained from prohibiting all commerce with France and her allies because of that forbearance and moderation "which had at all times distinguished his conduct."§

* It was in the following words: "His Majesty might probably be compelled, however reluctantly, to retaliate in his just defence, if neutral nations, contrary to all expectations, should acquiesce in such usurpations."

† The British orders, the French decrees, and the American laws and proclamations restricting commerce, beginning with 1793, will be found in a volume entitled *The Embargo Laws* (1809).

‡ *American State Papers, Foreign Relations*, vol. iii., pp. 5-7, 267-268.

§ Erskine to Madison, March 12, 1807, *Ameri-*

News of these events soon reached the United States, and early in February came a letter from Monroe and Pinkney saying that they had abandoned their instructions and would make the best treaty possible; but they were immediately notified that it would not be received. Next came news of the Berlin Decree; and on March 3, 1807, just as Congress was about to adjourn, the President received a copy of the treaty from David Montague Erskine, who, on November 4, 1806, had succeeded Anthony Merry as British minister at Washington. To Erskine's chagrin, Madison received the document with every manifestation of astonishment and regret; informed him that no treaty could be approved which left unsettled the question of impressment and search; and declared that the note concerning the Berlin Decree would of itself prevent ratification.*

On March 15, 1807, the official copy of the treaty came and Monroe and Pinkney were directed to proceed with the negotiations under their previous instructions until they should receive new ones, in order to obtain terms more in accordance with those desired by the President.† Subse-

can State Papers, Foreign Relations, vol. iii., p. 158; *Annals of Congress*, 10th Congress, 1st session, pp. 2550-2551.

* Madison's criticism of the treaty is in *American State Papers, Foreign Relations*, vol. iii., p. 166. See also pp. 158 and 159.

† See Madison's *Works* (Congress ed.), vol. ii., pp. 403, 405, 406. For their negotiations, see *American State Papers, Foreign Relations*, vol. iii., pp. 160-165.

quently Madison wrote to Monroe and Pinkney explaining more fully the stand they were to take on the several points at issue. Six changes were demanded. Provisions against impressment must be incorporated; the restrictions on the colonial trade must be removed; the article regarding trade with the West Indies must be stricken out; sufferers by illegal capture must be indemnified; and alterations must be made in those articles which gave to English cruisers and their prizes better treatment in American ports than was given to the enemies of England.* Before these instructions reached Monroe and Pinkney, the Whigs had fallen from power and Canning had entered the foreign office. Negotiations were delayed that Canning might study up on American affairs, but finally on July 24 a formal offer to renew the negotiations was made.† On that day, however, the first rumors of the attack on the *Chesapeake* by the *Leopard* reached London and the negotiations were suspended for a considerable time.‡

In the summer of 1806 a French squadron had been dispersed by a cyclone and a part of it had been forced to take refuge in Chesapeake Bay.

Early in 1807 a British squadron in search of these vessels* established a close blockade and proceeded to inflict all manner of indignity and damage on the citizens and commerce of Norfolk, Hampton and Baltimore. One of the British ships, the *Melampus*, 38, when cruising about two miles from shore, captured the *Three Brothers* and impressed ten of the crew. Shortly afterward she overhauled the *Mercury* and rifled her mail. In June another vessel of the squadron chased a revenue cutter with the Vice-President aboard. During February of 1807, while the *Melampus* was at anchor in Hampton Roads, five of her crew deserted and fled to Norfolk, where three of them enlisted in the United States navy for service on the *Chesapeake*, rated as a 38-gun ship.† The English consul at Norfolk demanded their return as deserters.‡ But when the matter was referred by the Secretary of the Navy to Commodore Barron, he replied that one of the men was a white native of Maryland, another a mulatto and a native of the same State, and a third a Massachusetts negro, who, like the mulatto, had been impressed by the British some time previously.|| Of the other two little was known, as no enlisting officer had returned their

* Madison to Monroe and Pinkney, May 20, 1807, *American State Papers, Foreign Relations*, vol. iii., pp. 166-173; *Annals of Congress*, 10th Congress, 1st session, pp. 2570-2590. See also McMaster, vol. iii., p. 253.

† *American State Papers, Foreign Relations*, vol. iii., pp. 194-196; *Annals of Congress*, pp. 2644-2650; Schouler, *United States*, vol. ii., p. 163.

‡ Gilman, *Life of Monroe*, p. 101.

* Channing, *The Jeffersonian System*, p. 190.

† Lossing, *Field-Book of the War of 1812*, p. 155.

‡ *American State Papers, Foreign Relations*, vol. iii., pp. 16-17.

|| *Ibid.*, pp. 17-18; Schouler, *United States*, vol. ii., p. 164; Lossing, p. 150.

names. On March 7 five British sailors from the sloop *Halifax*, 16, made off with the jolly boat, escaped to Norfolk, and enlisted aboard the *Chesapeake*, then under orders for the Mediterranean. The commander of the *Halifax* complained to the British consul and applied to Captain Decatur, but could get no redress. The British minister complained to the Secretary of State, who replied that reasons had already been given for not granting such requests. Thus protected, the men boarded the *Chesapeake*; but when the frigate came down the Potomac all of the deserters but one, Jenkin Ratford, left the ship.* He, however, unknown to the Secretary and the officers of the ship, had enlisted under the name of Wilson.†

These doings had been reported to Vice-Admiral George Cranfield Berkeley, commander-in-chief of the British North American station. Though he had no authority to do so, he took matters into his own hands, and on June 1, 1807, issued orders to all ships under his command, "in case of meeting with the American frigate, the *Chesapeake*, at sea, and without the limits of the United States, to show to the captain of her this order, and to require to search his ship for the deserters from the before-mentioned ships [the *Bellona*, *Belle Isle*, *Triumph*, *Chichester*, *Halifax*, and

Zenobia], and to proceed and search for the same."* This order was sent by the frigate *Leopard*, 50, commanded by Captain S. P. Humphreys, to Captain John Erskine Douglas of the line-of-battle ship *Bellona*, 74, then riding at anchor with the *Melampus* in Lynnhaven Bay. The *Leopard* arrived at her destination on June 21, made sail the next morning, and two hours later re-anchored a few miles to the eastward and about three miles north of Cape Henry Lighthouse.†

The *Leopard* had not long to wait, for ten hours after she dropped her anchor the *Chesapeake*, with James Barron in command, came down the Elizabeth River and dropped anchor in the Roads to complete her equipment. On the morning of June 22 she got under way, but as she passed the *Bellona* the latter vessel began to signal to the *Leopard*, which then stood out to set. At 3.30 o'clock in the afternoon the *Leopard* came up on the weather quarter of the *Chesapeake* and, hailing, informed Commodore Barron that she had dispatches for him.‡ Soon a lieutenant from the *Leopard* arrived aboard the *Chesapeake* and delivered a letter from Humphreys which contained a copy of Berkeley's order, naming six ships

* Adams, *United States*, vol. iv., p. 2; McMaster, vol. iii., pp. 255-256.

† Channing, *The Jeffersonian System*, p. 191.

* *American State Papers, Foreign Relations*, vol. iii., p. 12; *Annals of Congress*, 10th Congress, 1st session, vol. ii., p. 2302. See also Cooper, *Naval History*, vol. ii., App. A., p. 246; Adams, *United States*, vol. iv., p. 3; McMaster, vol. iii., p. 257, note.

† James, *Naval History*, vol. iv., p. 329.

‡ Cooper, *Naval History*, vol. ii., p. 14.

deserters from which were supposed to be aboard the *Chesapeake*.* Barron knew that he had on board three deserters from the *Melampus*, but as these had been proven to be American citizens, he saw no reason for surrendering them, and accordingly answered that no deserters from the British navy were in his crew.†

On the return of the lieutenant with Barron's answer, Humphreys hailed the *Chesapeake*. To get the *Chesapeake* ready for action required fully half an hour, and, in order to gain time, Barron replied that he did not understand the hail. Humphreys repeated his hail, and again Barron replied that he did not understand. The *Leopard* immediately fired a shot across the *Chesapeake's* bow,‡ a minute later followed with another shot, and in a few minutes had poured several broadsides of solid shot and cannister point blank into the helpless American frigate at pistol-shot distance.¶ To reply was impossible. Some of the *Chesapeake's* guns were not even on their carriages, the powder horns were not full, there were no matches, locks or logger-

heads; and all was confusion.* Barron desired that at least one cannon might be fired in return; but finding it impossible, ordered the colors to be lowered, just as one of the lieutenants contrived to discharge a cannon from the second division of the ship.† By this time 22 round shot were in the *Chesapeake's* hull, 10 shot holes were in the sails, the fore-mast and main-mast had been destroyed, the mizzen-mast greatly damaged, the rigging had been cut up, and 3 men had been killed and 18 wounded (including Commodore Barron). The one shot fired by the *Chesapeake* hulled the *Leopard*, but did no other harm.‡ Commodore Barron immediately sent a boat on board the *Leopard* to say that the ship was at the disposal of the British captain.¶ The boats of the *Leopard* then came aboard bringing several British officers, who mustered the American crew; selected the three Americans who had deserted from the *Melampus*; and were about to depart when Jenkin Rattford was found by the searchers hidden in a hole.§ As he was clearly a deserter, this discovery alone saved Captain Humphreys from the blame of committing an outrage not only lawless but purposeless. The four men were

* A copy of this letter will be found in *American State Papers, Foreign Relations*, vol. iii., p. 18; Cooper, vol. ii., pp. 246-247.

† *American State Papers, Foreign Relations*, vol. iii., p. 18; Adams, *United States*, vol. iv., pp. 13-14. See also McMaster, vol. iii., p. 258; Cooper, vol. ii., p. 247; Lossing, *Field-Book of the War of 1812*, p. 157.

‡ James, *Naval History*, vol. iv., p. 330; Cooper, *Naval History*, vol. ii., p. 17.

¶ Lossing, *Field-Book of the War of 1812*, p. 157; Schouler, *United States*, vol. ii., p. 165.

* Cooper, *Naval History*, vol. ii., pp. 12-13; Lossing, *Field-Book of the War of 1812*, p. 157.

† Cooper, *Naval History*, vol. ii., p. 17; Lossing, p. 158.

‡ See reports in *American State Papers, Foreign Relations*, vol. iii., p. 19. See also Cooper, *Naval History*, vol. ii., p. 18.

¶ Cooper, *Naval History*, vol. ii., p. 247.

§ Schouler, *United States*, vol. ii., p. 166.

taken to the *Leopard*, which then proceeded to her anchorage within the Capes. Of the four deserters, Ratford was sent to Halifax, tried for mutiny and desertion, found guilty and hanged; while his companions, not being subjects of the king, were reserved for a better fate.

Thereupon, the *Chesapeake*, battered and half disabled, with every pump working and with three feet of water in her hold, with officers and crew disgraced, degraded and smarting under a humiliation that was never forgotten nor forgiven, made her way back to Hampton Roads. A court of inquiry which sat at Norfolk in October of 1807 reported against the commodore, he being charged with neglect of duty, with having failed to prepare his ship for action, with having surrendered prematurely, and with having discouraged his men.* The court-martial (of which John Rodgers was president) took place in January of 1808 on Barron's own ship, the *Chesapeake*. Barron was held blameless in every particular except one. He was wrong in failing to prepare for action instantly on reading Berkeley's order; and for this mistake the court-martial sentenced him to five year's suspension from the service without pay or emoluments. Captains Gordon and Hall were privately reprimanded and the gunner was cashiered.†

The news of this unprovoked assault threw the Nation into a rage, and, as Jefferson said, "Never since the battle of Lexington have I seen this country in such a state of exasperation as at present."*

On June 25, 1807, when news of the outrage was received, President Jefferson was at Washington, but the Cabinet was scattered far and wide and some time passed before the members could be re-assembled. On July 2, however, at a full meeting the President read the draft of a proclamation

Cooper, *Naval History*, vol. ii., p. 18 *et seq.* The proceedings of the trial (the all-important authority on the naval aspects of the *Chesapeake* affair) were published as *Proceedings of the General Court-Martial Convened for the Trial of Commodore James Barron, Captain Gordon, Mr. William Hook and Captain John Hall, of the U. S. S. Chesapeake in the month of January, 1808* (1822). A justification of the attack will be found in John Lowell's Federalistic tract *Peace without Dishonor: War without Hope, being a Calm and Dispassionate Enquiry into the Question of the Chesapeake by a Yankee Farmer* (Boston, 1807). Another pamphlet on the *Chesapeake* affair is the *Essay on the Rights and Duties of Nations Relative to Fugitives from Justice, Considered with Reference to the affair of the Chesapeake* (1807). The official papers are conveniently grouped in a *Letter from the Secretary of State to Mr. Monroe on the * * * attack on the Chesapeake. The correspondence of Mr. Monroe with the British Government, and also Mr. Madison's Correspondence with Mr. Rose on the Same Subject* (Washington, 1808); in the British Blue-Book, *Papers Relating to the United States Presented to the House of Commons* (London, 1810); and in the *Trial of Jenkin Ratford* (re-printed at Boston).

* Letter to Du Pont de Nemours, July 14, 1807, in Ford's ed. of Jefferson's *Writings*, vol. viii., p. 110. See also the letter to Lafayette, p. 115, and the letters in vol. ix., p. 88 *et seq.* See also Morse, *Thomas Jefferson*; Tucker, *Life of Jefferson*, vol. ii., p. 236-237.

* *American State Papers, Foreign Relations*, vol. iii., pp. 21-23.

† Adams, *United States*, vol. iv., p. 20 *et seq.*

which was issued on the same day.* It rehearsed the story of American injuries; set forth how careful the United States had been to keep with good faith the neutrality she had assumed; how her ports had been freely used by each belligerent; how British officers had violated our laws and trespassed on our property; how all our complaints had been disregarded; how promises of reform had been given and broken; how offenders had never been punished; and how, finally, the recent gross outrage had been committed.† Accordingly all British vessels were required to depart from American waters at once, and the waters and harbors of the United States were interdicted to them.

According to Jefferson, at the same meeting at which this proclamation was approved other measures were taken.‡ The gunboats were ordered to be stationed at points likely to be attacked; the President was directed to recall all our vessels from the Mediterranean; and it was resolved to send a messenger on the *Revenge* to London to demand satisfaction for the attack on the *Chesapeake*. Two days later, at another Cabinet meeting, it was decided to call Congress to meet on October 26, unless occurrences should

render an earlier call necessary.* On the following day, at a third Cabinet meeting, it was agreed to call on the governors of the States to have their quotas of 100,000 militia ready for service.† On July 6 Madison signed and dated the instructions to Monroe and Pinckney and gave the packet to Dr. John Bullus to carry to England on the *Revenge*. By these instructions the American representatives were to demand a disavowal of the attack on the *Chesapeake*, the restoration of the men seized, and the recall of Admiral Berkeley. Besides "as a security for the future, an entire abolition of the impressment from vessels under the flag of the United States, if not already arranged, is also to make an indispensable part of the satisfaction."‡

That Jefferson thoroughly disliked the idea of going to war is plainly evident from his correspondence.¶ Furthermore, the report of the French minister Turreau to Talleyrand, July 18, seems to confirm this. He says that at a meeting with the President at the White House Jefferson asserted that, if Great

* McMaster, vol. iii., pp. 263-264; Adams, *United States*, vol. iv., p. 31.

† Lossing, *Field-Book of the War of 1812*, p. 159.

‡ *American State Papers, Foreign Relations*, vol. iii., pp. 183-184.

¶ See his letter to Governor Cabell, June 29, 1807; to Vice-President Clinton July 6; to Bowdoin July 10; to Bidwell July 11; to Du Pont July 14; and to Lafayette July 14; in his *Works*, vol. v., pp. 114, 115, 123, 125, 127, 129.

* Richardson, *Messages and Papers*, vol. i., pp. 422-424; Ford's ed. of *Jefferson's Writings*, vol. ix., pp. 89-99.

† *American State Papers, Foreign Relations*, vol. iii., pp. 23-24.

‡ See Ford's ed. of *Jefferson's Writings*, vol. i., p. 354.

Britain did not give us satisfaction, we would take Canada. Turreau said that both Jefferson and Madison dreaded war and would do everything possible to avoid it, since the Administration had nothing to gain by war and everything to lose.* The British minister, Erskine, seemed to think the same and that it would take but slight action on the part of the British government to afford the American Administration a loop-hole through which it might avoid war. Writing to Canning, July 21, 1807, Erskine said that while the war-fever had not yet subsided, an apology by the British government for the attack on the *Chesapeake* would not only have a powerful effect on the minds of the people, but would make it impossible for the Administration to declare war merely on the basis of the points of difference.†

While the *Revenge* was slowly making her way across the Atlantic, word of the *Chesapeake* affair reached London. On the morning of July 25 Berkeley's official dispatch was delivered to Canning, who immediately sent a private note to Monroe saying that he had heard of a "transaction" off the coast of America and assuring him "that if the British officers should prove to have been culpable, the most prompt

and effectual reparation shall be afforded to the Government of the United States."* Monroe received no official information until August 31, when Dr. Bullus delivered his packet. Though ignorant of the wishes of his government, Monroe had no doubt as to the disposition of the king or the sentiments of the British people. Of all the newspapers, the *Morning Chronicle* was the only one to deprecate an American war or to blame Berkeley's act. The British public was assured that the United States was striking at the vitals of her commercial existence; that we were disputing her supremacy; were inveigling her troops and seamen and degrading her in the eyes of Europe. "But," said the *Morning Post* (October 24), "a few short months of war would convince these desperate politicians of the folly of measuring the strength of a rising but still infant and puny nation with the colossal power of the British Empire."† On July 29 Monroe wrote to Canning calling attention to the outrage and expressing the fullest confidence that the British government would disavow and pun-

* See his letter quoted in Adams, *United States*, vol. iv., pp. 36-37.

† *Ibid.*, pp. 37-38.

* *American State Papers, Foreign Relations*, vol. iii., p. 187. The official correspondence may be consulted in the *Report of the (Senate) Committee on Correspondence between Monroe and Canning and Madison and Rose, Relative to the Attack on the Chesapeake* (April 16, 1808), and also in *Letters from the Secretary of State to Mr. Monroe on the Subject of Impressment*. See also Monroe's *Writings*, vol. v., p. 8.

† Adams, *United States*, vol. iv., pp. 41, 44, 54.

ish the offending officer.* On August 3 Canning sent a brief reply, stating that the king's government was not bound to do more than express a readiness to make reparation if the facts in the case so warranted and assuring him "that his Majesty neither does nor has at any time maintained the pretension of a right to search ships of war, in the national service of any State, for deserters."†

In the face of the popular excitement then prevailing in England, Monroe did well even to secure an expressed disavowal of the pretension to search ships of war. On September 3, after his new instructions arrived, Monroe had another interview with Canning at which, in addition to the previous demands, he made also the demand that the practice of impressing seamen from merchant vessels be discontinued.‡ Canning made no objection to the President's demands so far as they related to the *Chesapeake*, but firmly declined to admit the subject of impressment into the discussion. The next day Monroe wrote a note, founded on his instructions, insisting that the outrages caused by the impressment in general should be considered as a part of the *Chesapeake*

affair and saying that the United States government regarded satisfactory adjustment of this indispensable to a complete adjustment of all differences between the two countries.* On September 23 Canning replied. After professing his willingness to discuss the regulation of the practice of impressment, he stated that a special envoy would be sent to the United States, though he would "not be empowered to entertain * * * any proposition respecting the search of merchant vessels."†

Recollecting the fate of his treaty, Monroe decided that he would not again disobey his instructions. On October 19, therefore, when Dr. Bullis departed to meet the *Revenge* at Land's End, he carried with him the discouraging news that all negotiation was over respecting the affair of the *Chesapeake*.‡ On October 29 Monroe started for Portsmouth to take the first vessel home, leaving Pinkney in charge. Ere he departed he was informed that a minister would be sent to the United States to adjust the *Chesapeake* affair, that this minister would be George Henry Rose, and that Admiral Berkeley had been recalled and his act disavowed. In order to provide against the reproach of having surrendered British rights, the Tory ministry on October

* *American State Papers, Foreign Relations*, vol. iii., p. 187; *Annals of Congress*, 10th Congress, 1st session, p. 2628.

† *American State Papers, Foreign Relations*, vol. iii., p. 188; *Annals of Congress*, pp. 2629-2630.

‡ *American State Papers, Foreign Relations*, vol. iii., p. 191-193.

* *Ibid.*, vol. iii., p. 189-191; *Annals of Congress*, pp. 2633-2636.

† Canning to Monroe, *American State Papers, Foreign Relations*, vol. iii., pp. 199-201.

‡ For the letter, see *ibid.*, vol. iii., pp. 193-194; *Annals of Congress*, pp. 2637-2641.

16 issued a proclamation almost as offensive to the United States as was Admiral Berkeley's order. Asserting that large numbers of British seamen had been enticed to enter the service of foreign states, the proclamation ordered such seamen to return home and, lest they should not obey, naval officers were to seize them without unnecessary violence in any foreign merchant vessel where they might be found and demand them from the captains of neutral war-vessels. The proclamation gave warning that naturalization would not be regarded as relieving British subjects of their duties and that if such naturalized persons returned immediately to their allegiance, they would be pardoned; but all those who should continue to serve on ships of war belonging to any power at amity with England would be guilty of high treason and might be punished with death.*

Before sailing for home the *Revenge* went to Cherbourg for dispatches from Paris. There she received some very important papers from Armstrong. On February 19, 1807, the Spanish king had issued a decree similar to the Berlin Decree, and under it numerous American merchantmen had been captured and sent to admiralty courts for judgment. The decision was in some doubt, since it depended not on the

will of the Spanish judges, but on the French interpretation of the Berlin Decree. The Spanish minister applied to the French court for such an interpretation, and upon learning of it Armstrong wrote to Champagny reminding him of the treaty of 1800 and demanding that the Spanish minister be told that, in consequence of the treaty, American ships were exempt from the Berlin Decree. Armstrong's letter was referred from one minister to another until it reached Napoleon, who finally declared "that since America suffers her vessels to be searched she adopts the principle that the flag does not cover the goods, and that as she submits to the Orders in Council of England so she must submit to the Berlin Decree of France."

To fight Bonaparte with his own weapons had become the duty of Englishmen, and one of Canning's first acts was to retaliate for the Berlin Decree. To this Canning had been led by a long series of events which broke down the neutral powers of Europe. On July 19, 1807, the king of Portugal was commanded by Napoleon to shut his ports to English commerce after September 1, and on August 2 Napoleon sent orders to Bernadotte at Hamburg that, if England did not accept the mediation of Russia, Denmark must choose between declaring war on England or war with France. To forestall action by Napoleon, Canning sent a large fleet with thousands of troops to

* *Annals of Congress*, 10th Congress, 1st session, vol. ii., pp. 2328-2330; *American State Papers, Foreign Relations*, vol. iii., pp. 25-26, 268. See also McMaster, vol. iii., pp. 269-270; Adams, *United States*, vol. iv., pp. 51-52.

Copenhagen, to demand the delivery of the Danish fleet as a temporary security for the safety of England. As the Danish government declined to accede to this demand, 20,000 troops were landed, batteries were planted, and for three days and nights the city was bombarded. The Danish fleet was then surrendered and all the Danish merchant vessels in English waters with their cargoes, to the value of \$10,000,000, were confiscated.* Almost at the same time the Berlin Decree began to be enforced in Holland. Under Louis Bonaparte's connivance, a brisk trade had sprung up between Holland and England; but Napoleon gave orders that this must stop entirely. Louis obeyed and during the last days of August every neutral ship at Amsterdam was confiscated.

Emboldened by the seizure of the Danish fleet and incensed at the enforcement of the Berlin Decree in Holland, England decided to retaliate on France, issuing Orders in Council of November 11, 1807. After a few paragraphs regarding the order of January 7, 1807 (cutting off the coasting rights of neutrals), it was ordered that all American commerce, except that to Sweden and the West Indies, must pass through some British port and under a British license. So ambiguous was the language of this order that several other orders were issued to explain it, so that, beside the expressed provisions in the order

of November 11, it was understood that American commerce with the enemies of England must pass through British ports; that colonial products should pay a tax to the British treasury to enhance its price; and that cotton would not be allowed to enter France.* Therefore, after November 11, 1807, the cargo of any American vessel was liable to capture if that vessel came from any port in Europe from which the British flag was excluded.†

Before news of this could reach Napoleon, he had departed for Italy. Perceval's Orders in Council had appeared in the *London Gazette* of November 14, and at Milan Napoleon received a copy of that issue of the *Gazette*. Some weeks afterward war had been declared between England and Russia; and now no neutrals remained save Sweden, which was to be crushed by Russia, and the United States, with which Napoleon undertook to deal himself. He did not hesitate a moment and on December 17 issued a new proclamation from the Royal Palace at Milan known as the Milan Decree.‡ Thenceforth any ship, regardless of its nationality, that should have suffered a British officer

* *American State Papers, Foreign Relations*, vol. ii., pp. 29-31, 269-270; *Annals of Congress*, 10th Congress, 1st session, vol. ii., pp. 2337-2342; 2d session, pp. 1698-1710.

† Adams, *United States*, vol. iv., pp. 102-103. See also Lossing, *Field-Book of the War of 1812*, pp. 153-154, note.

‡ *American State Papers, Foreign Relations*, vol. iii., pp. 290-291; *Annals of Congress*, 10th Congress, 2d session, pp. 1751-1752.

* Adams, *United States*, vol. iv., pp. 62-66; McMaster, vol. iii., pp. 272-273.

to search it or made a voyage to England, or paid any duty whatsoever to the British government was denationalized and whenever it came to a French port or to a port of an ally of France, or on the high seas fell into the hands of a ship of war or a privateer was good and lawful prize. The British Isles were now in a state of blockade both by land and by sea, and if a ship should enter or leave a British port, no matter in what portion of the globe, it was to be seized wherever found.*

When news arrived of the British Order in Council Jefferson was dismayed, inasmuch as he had expected a far different solution of the question, having by word and letter advocated peace. Not only did he write in a peaceful vein to Americans, but intimated to the foreign representatives that the United States had no desire for war. The people of the country had waited patiently for the return of the *Revenge*, and when they learned that Admiral Berkeley's orders had been issued without the authority or knowledge of his government and would probably be disavowed, the excitement began to subside. Furthermore, the news that came from Europe tended to chill the war fever, for the bombardment of Copenhagen, the execution of the

Berlin Decree in Holland, and other events were calculated to raise more grave doubts as to the reasonableness of war. Besides, their attention had been diverted by the trial of Aaron Burr and other domestic affairs. As the war spirit declined, Turreau became more and more bitter, and on September 4 he wrote to Talleyrand that there was no hope of war with England, since the people were indifferent to everything bearing the name of French and were completely subservient to England.* Erskine, the British minister, believed that the American people would not go to war, but based his assumption on commercial and political considerations.† At the same time Erskine warned the home government that it would not be well to push things too far, for no nation could be expected to endure without protest the indignities which the United States was constantly experiencing.‡ He said that unless the disputes were amicably adjusted, Congress would undoubtedly retaliate by a system of commercial restrictions on the trade of Great Britain.||

Thus all seemed to expect the same course of events. That Jefferson would have little trouble in foisting his peace views on the country was to be expected. He was immensely

* McMaster, vol. iii., pp. 292-293; Adams, *United States*, vol. iv., pp. 124-127. See also *Annals of Congress*, 10th Congress, 2d session, pp. 1751-1752; Lossing, *Field-Book of the War of 1812*, p. 154; Wheaton, *Life of William Pinkney*, p. 17.

* See his letter quoted in Adams, *United States*, vol. iv., pp. 140-141.

† See his letter to Canning, September 1, 1807, quoted in *ibid.*, vol. iv., pp. 142-143.

‡ See his letter to Canning, October 5, 1807, quoted in *ibid.*, vol. iv., pp. 143-144.

|| Adams, vol. iv., p. 144.

popular and the opposition was growing weaker daily. Beyond the Alleghanies—in Tennessee, Kentucky, and Ohio—his word was law. He had never met with any serious attack in the three southernmost States. Pennsylvania was torn by Whigs, New York was divided between the Clintons and Livingstons, and Massachusetts had just elected a Democratic governor by a large majority. Of the New England States, Connecticut alone held to her old conservative principles.* In Congress there was little organized opposition. In the Senate there were but five Senators who could oppose Jefferson's foreign policy merely from the partisan standpoint. These were Timothy Pickering, of Massachusetts, James A. Bayard and Samuel White, of

Delaware, and James Hillhouse and Chauncey Goodrich, of Connecticut; but even among these men there was little unanimity of opinion, since Pickering had little confidence in Bayard and there were limits to Bayard's partisanship. In the House the opposition could not muster more than 30 votes, while the Republican strength was more than 110. To make matters still more rosy from the Republican point of view, Gallatin had succeeded in keeping a full treasury, in spite of the fact that taxes had been reduced and large sums of money devoted to redeeming the principal of the public debt. This, as much as anything, was the basis of the popularity of the Administration. It was under these conditions, therefore, that Congress, in obedience to the President's call, met on October 26.

CHAPTER X.

1807-1809.

THE EMBARGO: ELECTION OF MADISON.

Convening of the Tenth Congress — Jefferson's message — His gunboat scheme — His Embargo message — Passage of the Embargo Act — Denunciation of the act — Champagny's definition of French decrees — Passage of the first Supplementary Embargo Act — Madison's negotiations with Rose — Effects of the Embargo — Passage of the second Supplementary Embargo Act — Other Acts of Congress — Grant of authority to President to suspend Embargo — Passage of the third Supplementary Embargo Act — Jefferson's proclamation prohibiting smuggling — His request that flour certificates be issued — Sullivan's actions — Excitement along the borders — Judge Johnson's decision — The British Order in Council of April 11, 1808 — Pinkney's correspondence with Canning — Napoleon's Bayonne Decree — Madison's instructions to Armstrong — Liberation of American ships by Spain — Repeal of the Embargo requested — Nomination of party candidates — Pickering's treasonable correspondence — Adams' defeat in Massachusetts — Henry's letters regarding New England confederacy — Election of Madison and Clinton — Jefferson's message to Congress — Adoption of Campbell's resolutions — Passage of the Force Bill — Threats of New England to secede — Passage of the Non-intercourse Act — Appendix to Chapter X. — Important Sections of the Non-intercourse Act.

News of occurrences in England and France did not reach the United

States for some time, as the sailing vessels bound for this country had departed before the various decrees

*Adams, *United States*, vol. iv., pp. 145-146.

were promulgated. In the meantime Jefferson had considered the state of foreign relations so critical that on July 30, 1807, he issued a proclamation convening Congress on Monday, October 26, 1807.*

When Congress assembled, Joseph B. Varnum, of Massachusetts, was elected by a bare majority of 59 to 58 to succeed Macon as Speaker of the House.† Entirely ignoring Randolph, Varnum appointed George W. Campbell, of Tennessee, chairman of the Committee of Ways and Means.‡ On October 27 the President's message was read.|| He spoke, among other things, of the efforts to negotiate a treaty with England, of the attack on the *Chesapeake*, of the invasion of neutral rights, and of the state of our relations with Spain. The message closed with the statement that the revenue during the preceding year had amounted to nearly \$16,000,000, which, with the money previously in the treasury (\$5,500,000), sufficed to discharge more than \$4,000,000 of the

principal of the funded debt, beside meeting current demands, and the suggestion that part of the balance be applied toward completing the defence of the exposed points of our country on a moderate scale. The month of November passed in futile debate.* That some policy ought to be adopted for defending the coasts and frontiers was generally conceded, but no plan could be devised satisfactory to all sections of the country. The policy of building gunboats had been Jefferson's pet hobby for a long time, he having had the plan under consideration as far back as 1805. He said in his message to the first session of the Ninth Congress in December of 1805 that the coast line ought to be protected by competent gunboats, but "the number, to be competent, must be considerable."† On February 10, 1807, Congress passed a resolution asking the President for information as to the efficacy of gunboats in protecting harbors, together with the number desired for each port.‡ Accordingly, on February 10, 1807, in a message to Congress,|| Jefferson said that the proposed mode of defence included (first) land batteries furnished with

* Richardson, *Messages and Papers*, vol. i., p. 424.

† *Annals of Congress*, 10th Congress, 1st session, vol. i., p. 782; Benton, *Abridgment*, vol. iii., p. 613.

‡ Gordy, *Political History*, vol. i., p. 541; Schouler, *United States*, vol. ii., pp. 176-177.

|| Richardson, *Messages and Papers*, vol. i., pp. 425-427; Ford's ed. of *Jefferson's Writings*, vol. ix., pp. 145-166; *Annals of Congress*, 10th Congress, 1st session, vol. i., pp. 14-18; Benton, *Abridgment*, vol. iii., pp. 548-550. As transmitted it was less peremptory and warlike in tone than Jefferson's first draft, having been toned down upon Gallatin's advice (Adams, *Life of Gallatin*, p. 363).

* *Annals of Congress*, 10th Congress, 1st session, vol. i., pp. 27-31.

† Richardson, *Messages and Papers*, vol. i., p. 385.

‡ See Tucker, *Life of Jefferson*, vol. ii., pp. 174-176.

|| Richardson, *Messages and Papers*, vol. i., pp. 419-421; Ford's ed. of *Jefferson's Writings*, vol. ix., pp. 23-27; *Annals of Congress*, 9th Congress, 2d session, pp. 63-65.

heavy cannon, (second) movable artillery, (third) floating batteries, and (fourth) gunboats which could oppose an enemy at his entrance and coöperate with the army for his expulsion. He added that 200 of these vessels would be required for various harbors; that some of them should be of sufficient size to make an ocean voyage if required; that already 73 were either constructed or under construction; and that the remaining 127 would cost from \$500,000 to \$600,000.

Gallatin was not in sympathy with the President's policy of appropriating so much money for gunboats. In his opinion less than one-third the number desired by Jefferson was needed in time of peace, while in case of war any required number could be built within 30 days. "Exclusive of the first expense of building and the interest of the capital thus laid out, I apprehend that, notwithstanding the care which may be taken, they [the gunboats] will infallibly decay in a given number of years, and will be a perpetual bill of cost for repairs and maintenance."* In November of 1807 the matter was taken under consideration by Congress, and on November 8 Robert Smith wrote to Dr. Mitchill, chairman of the Senate Committee on Defences, asking that \$852,500 be appropriated to build 188 more gunboats, so as to raise the whole number to 257† A bill for this

purpose was unanimously passed by the Senate and was sent to the House, where a sharp debate ensued.* In spite of the opposition, however, the House passed the bill on December 11, by a vote of 111 to 19,† and Jefferson approved it on December 18, 1807.‡

While Congress was wrangling about systems of defence, the country was listening with bated breath to the latest dispatches from England. Toward the end of November Madison received Monroe's letters of October 10 announcing that Canning refused to couple the *Chesapeake* affair with the impressment of seamen, that it was intended to send a special envoy to settle the *Chesapeake* affair, that Monroe had taken leave of the British court, and that William Pinkney was henceforth the sole minister of the United States in London.¶ On December 14, 1807, against the remonstrances of a large number of merchants, the Non-importation Act of April 18, 1806, went into effect, and all articles of leather, silk, hemp, glass, silver, or paper, woolen hosiery, ready-made clothing, pictures, prints, millinery, malt liquors, plate glass, etc., of English manufacture were henceforth ex-

vol. i., p. 32; Maclay, *History of the Navy*, vol. i., p. 312; Lossing, *Field-Book of the War of 1812*, p. 167.

* *Annals*, pp. 44, 45, 48.

† See *Annals*, pp. 985-1001, 1061-1171; Benton, *Abridgment*, vol. iii., pp. 625-640.

‡ *Annals*, p. 2814.

** *American State Papers, Foreign Relations*, vol. iii., p. 191.

* Adams' ed. of Gallatin's *Writings*, vol. i., p. 330.

† *Annals of Congress*, 10th Congress, 1st session,

cluded. Two days later Madison received a copy of the king's proclamation of October 17 requiring British naval officers to exercise to its full extent the right of impressment over neutral merchant vessels.*

The alarming news arrived at Washington December 17, 1807, immediately after the receipt of the impressment proclamation.† Accordingly, on December 18, after consulting the Cabinet,‡ Jefferson sent a message to Congress in which he showed "the great increasing dangers with which our vessels, our seamen, and merchandise are threatened on the high seas from the belligerent powers of Europe." In order to "keep in safety these essential resources," he recommended "an inhibition of the departure of our vessels from the ports of the United States"—in other words an embargo.|| With this message were

transmitted the proclamation of October 17, requiring all British seamen in foreign service to return home,* and Napoleon's official interpretation (dated September 18, 1807) of the Berlin Decree. The Senate closed its doors, took the message and papers under consideration, and at once referred them to a committee of five. Hardly had the committee been formed when the chairman introduced an Embargo bill. In the committee Adams made an energetic appeal for immediate action.‡ The Senate passed the bill the same day by a vote of 22 to 6, and it was immediately sent to the House.§ Crawford and Maclay were the only Republicans to vote with the Federalists against this bill.|| When the House received the message, John Randolph offered a resolution "that an embargo be laid on all shipping, the property of citizens of the United States, now in port, or which shall arrive hereafter."§ During the debate the Senate Embargo bill was received whereupon Randolph's resolution was laid aside. For three days the debate on the Senate bill continued and amendment after amend-

* For text, see *American State Papers, Foreign Relations*, vol. iii., pp. 25-26. Pinkney wrote to Madison January 7, 1808: "The least appearance of a disposition to submit will encourage further aggressions, until our national spirit will be lost in an habitual sense of humiliation, our character known only to be despised, and our rights considered, like those of the petty states of Europe, the sport and the prey of the strongest. There is an opinion here that we are likely to become a divided people, when a rupture with Great Britain is in question * * *"—Pinkney, *Life of Pinkney*, pp. 193-194.

† Adams, *United States*, vol. iv., pp. 165-168; Schouler, *United States*, vol. ii., p. 178.

‡ For Gallatin's opinion of an embargo, see Adams' ed. of Gallatin's *Writings*, vol. i., p. 368.

|| Richardson, *Messages and Papers*, vol. i., p. 433; Ford's ed. of Jefferson's *Writings*, vol. ix., pp. 169-171; *Annals of Congress*, 10th Congress, 1st session, vol. i., p. 1216; Benton, *Abridgment*, vol. iii., pp. 640-641.

* *American State Papers, Foreign Relations*, vol. iii., pp. 25-26. See also Gordy, *Political History*, vol. i., p. 545.

‡ See *Diary of John Quincy Adams*, vol. i., p. 491.

§ *Annals*, pp. 50-51; Adams, *United States*, vol. iv., pp. 172-173; McMaster, vol. iii., p. 277; Channing, *The Jeffersonian System*, p. 212; Quincy, *Memoir of John Quincy Adams*, pp. 36-37.

|| Schouler, *United States*, vol. ii., p. 179.

§ *Annals of Congress*, 10th Congress 1st session, p. 1216; Benton, *Abridgment*, vol. iii., p. 641.

ment was introduced and rejected. Finally, on December 22, the bill was passed by a vote of 82 to 44.* The same day some verbal changes were accepted by the Senate, the act was promptly signed by the President.† and on Tuesday, December 22, 1807, an embargo was in force prohibiting all American vessels from sailing for foreign ports and foreign vessels from taking out cargoes, while no coasting vessels could land their cargoes in the United States without giving bonds equal to twice the value of ship and cargo.‡

The most important provisions of the act are as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an embargo be, and hereby is, laid on all ships and vessels in the ports and places within the limits or jurisdiction of the United States, cleared or not cleared, bound to any foreign port or place; and that no clearance be furnished to any ship or vessel bound to such foreign port or place, except vessels under the immediate direction of the President of the United States: * * * *Provided,* that nothing herein contained shall be construed to prevent the departure of any foreign ship or vessel, either in ballast, or with the goods, wares and merchandise on board of such foreign ship or vessel, when notified of this act.

And be it further enacted, That during the continuance of this act, no registered, or sea letter vessel, having on board goods, wares and merchandise, shall be allowed to depart from one port of the United States to any other within the same, unless the master, owner, consignee or factor of such vessel shall first give bond, with one

or more sureties to the collector of the district from which she is bound to depart, in a sum of double the value of the vessel and cargo, that the said goods, wares, or merchandise shall be reloaded in some port of the United States * * *. All armed vessels possessing public commissions from any foreign power, are not to be considered as liable to the embargo laid by this act.*

The Embargo was violently denounced by the Federalists and many of the Democrats who were dissatisfied with Jefferson's policies.† The Federalists asserted that the act could not produce the desired result of compelling the belligerents to rescind their obnoxious decrees, for, however important the trade with the United States might be considered by England and France, it was not to be presumed that either nation would be forced in this way to change its determination. The resources of both countries were too great and too varied to be affected seriously by the suspension even of American commerce. Both nations were determined not to allow America to remain neutral, and both meant, if possible, to make her side with one

* *United States Statutes-at-Large*, vol. ii., pp. 451-453; MacDonald, *Select Documents*, pp. 176-177; *Acts of the 10th Congress*, 1st session, chap. v.

† See Adams, *John Randolph*, pp. 227-229; Schouler, *United States*, vol. ii., p. 183. Gay says: "It is not easy in our time to conceive of a President proposing, or a party accepting, or of the people submitting to such a measure as this. But Mr. Jefferson's followers were very obedient, and there was, undoubtedly, a very general belief that trade with the United States was so important to the nations at war, that for the sake of its renewal the obnoxious decrees and orders in council would be repealed."—*Life of Madison*, p. 279.

* *Annals*, pp. 1217-1223; Benton, pp. 641-642.

† *Annals*, pp. 2814-2815.

‡ McMaster, vol. iii., pp. 277-278; Adams, *United States*, vol. iv., pp. 173-175; Morse, *Thomas Jefferson*, pp. 300-301; Channing, *The Jeffersonian System*, pp. 212-214; Schouler, *United States*, vol. ii., p. 179 *et seq.*

or the other of the contending powers. The opponents of the measure asserted also that this policy accorded with Napoleon's own wishes and expectations. On the preceding October he had predicted that this embargo would be laid, and the fact that he considered America as virtually an ally with France in the war with England largely influenced his course. Jean Baptiste de Champagny on January 15, 1808, wrote a letter to Armstrong defining the Berlin and Milan decrees:

"The United States, more than any other Power, have to complain of the aggressions of England. It has not been enough for her to offend against the independence of their flag, nay, against that of their territory and of their inhabitants, by attacking them even in their ports, by forcibly carrying away their crews; her decrees of the 11th of November have made a fresh attack on their commerce and on their navigation as they have done on those of all other Powers.

"In the situation in which England has placed the Continent, especially since her decrees of the 11th November, his Majesty has no doubt of a declaration of war against her by the United States, whatever transient sacrifices war may occasion; they will not believe it consistent either with their interest or dignity to acknowledge the monstrous principle and the anarchy which that Government wishes to establish on the seas. If it be useful and honorable for all nations to cause the true maritime law of nations to be re-established, and to avenge the insults committed by England against every flag, it is indispensable for the United States, who, from the extent of their commerce, have oftener to complain of those violations. War exists, then, in fact, between England and the United States; and his Majesty considers it as declared from the day on which England published her decrees. In that persuasion, his Majesty, ready to consider the United States as associated with the cause of all the Powers who have to defend themselves against England, has not taken any definite measures towards the American vessels which have been brought into our ports; he has ordered that they

should remain sequestered until a decision may be had thereon, according to the disposition which shall have been expressed by the Government of the United States."*

This letter with other documents was communicated to Congress by the President March 22, 1808.†

On receiving news of the passage of the Embargo Act, the merchants of New York and other ports rushed their vessels to sea before the revenue officers could act. None had clearances, many were half manned, few had more than part of a cargo, and some departed without breaking bulk. On licensed ships engaged in the coasting trade the law laid no restraint, and as a result merchants engaged in the foreign trade rushed to the custom house to surrender their ship registers and to take out licenses to trade along the coast. Being loaded, the vessels would pretend to sail for some coast port and, when a long distance out, would change their course and make for some interdicted port. As no punishment was provided for this, large numbers of vessels engaged in this trade, until finally Gallatin directed the collectors to exchange no more registers for coasting licenses, and to hold all ships whose cargoes seemed destined for foreign ports.‡

* *American State Papers, Foreign Relations*, vol. iii., pp. 248-249.

† Richardson, *Messages and Papers*, vol. i., pp. 445-456; *American State Papers, Foreign Relations*, vol. iii., pp. 80-81.

‡ McMaster, vol. iii., pp. 379-380. On the effect of the Embargo, see Gallatin's annual report of December 16, 1808, in *American State Papers, Finance*, vol. ii., pp. 307-309.

Congress then passed the Supplementary Act to amend the faults of the Embargo Act. Under this act bonds in twice the value of the ship and cargo were to be given as a guarantee that a coaster would re-land her cargo in the United States; river craft being bonded in \$300 per ton not to engage in foreign trade. If the embargo were broken, the ship and cargo was to be forfeited, or, if the vessel could not be seized, the owner was to forfeit a sum equal to twice their value, the master and all engaged to be fined from \$1 to \$20,000, according to the nature of the crime.* Another section of the Supplementary Act related to fishers and whalers, an attempt having been made to exempt them from the law. It was said that the purpose of the Embargo was to protect American merchantmen and sailors from capture by foreign powers and to force a repeal of commercial restrictions by cutting off all trade with such powers. New England fishermen were not in danger of being captured and were not engaged in trade. To force them to travel 50 or 60 miles a week to secure a fishing or whaling permit would be as unjust as compelling a farmer to take out a license to sow seed or harvest his crops. While the Republicans admitted the hardship this entailed, they feared there would be too great a loophole for fraud if a distinction were made be-

tween these ships and all others. When the Embargo was laid no restriction had been placed on coasters, and the merchants simply turned their ships into coasters and evaded the law. Hence, with no new restriction on fishermen, the coasters and every vessel engaged in foreign trade would become a whaler or fishing schooner and proceed to evade the law.* The only concession that the fishermen could obtain was a provision that bonds equal to four times the value of the ship and fishing tackle should be given not to touch at any foreign port during the voyage and to bring back all the catch to the United States. In this shape Jefferson signed the act on January 9, 1808.†

Hardly had Jefferson signed the first Supplementary Act when George Henry Rose, the envoy from England, presented himself at Washington. The avowed object of his mission was to offer satisfaction for the attack upon the *Chesapeake*, but the true object as given in his instructions was different. Canning instructed Rose, in case any attempt were made to apply the proclamation of July 2 to the frigate bearing him, to enter a protest and return to England. Should any such difficulty occur, he

* For the debate on the bill see *Annals of Congress*, pp. 1240-1241, 1244-1257, 1269-1276, 1359-1360.

† McMaster, vol. iii., pp. 280-281; Channing, *The Jeffersonian System*, p. 215. For the Supplementary Acts of January 9, March 12, April 22 and 25, 1808, and January 9, 1809, see *United States Statutes-at-Large*, vol. ii., pp. 453-454, 473-475, 490, 496-502, 506-511.

* *Annals of Congress*, 10th Congress, 1st session, vol. ii., pp. 2815-2817.

was to proceed to Washington, request an audience with the President and Secretary of State, and inform them that he was furnished with full powers to enter into negotiations respecting the *Chesapeake* affair, but forbidden to entertain any other proposition.* Under no consideration was he to enter into negotiations until the proclamation of July 2, 1807, had been recalled and the measures which had been adopted under it had been abandoned. This done, he was to say that Admiral Berkeley had been recalled from his command for having acted without authority, that the attack on the *Chesapeake* was disavowed, that the men taken by this unauthorized act out of the American frigate would be discharged, and that his Majesty was ready to secure to the widows and orphans a provision equal to their respective situations and conditions in life. This was to be the limit of his concessions. He was to demand that the United States Government disavow Barron's encouragement of British seamen to desert and that a pledge be given that such actions would not recur.

In his first official interview with Madison (January 16, 1808) Rose informed him that the President's *Chesapeake* proclamation would prove a stumbling block without whose re-

call nothing could be done. Madison replied that the exclusion of British ships was not a punishment, but a precaution taken in the interest of peace and that the attack by the *Leopard* was but one of its causes.* In the face of Canning's positive instructions, Rose would not recede, however, and before a week had passed negotiations were at a standstill. On January 29 Rose wrote to Madison that if the proclamation were withdrawn, he would be able to terminate the negotiations amicably and satisfactorily. Madison sent no answer, but kept negotiations alive by private interviews. Rose was again implored to make it possible for the President to comply with his demands and for a while stood firm, but on February 6, 1808, he wrote to Canning saying that a new proposal had been made to him "that he [Madison] should put into my hands a proclamation recalling the original proclamation, sealed and signed by the President, bearing date on the day of adjustment of differences, and conceived in such terms as I should agree to; that on this being done we should proceed to sign the instruments adjusting the reparation." The experiment must be made unofficially and to this Rose said he answered that if the attempt failed, the regular and official negotiations must be resumed on his explanatory note of January

* See the "Negotiations with Mr. Rose," in Madison's *Works* (Congress ed.), vol. ii., pp. 411-421. See also the *Report of the [Senate] Committee on Correspondence between Monroe and Canning and Madison and Rose relative to the attack on the Chesapeake* (April 16, 1808).

* See the letters in *American State Papers, Foreign Relations*, vol. iii., pp. 213-217.

26.* On February 5, according to the agreement, Rose, Erskine, and Madison framed the proposed proclamation and accepted it. In the course of a few interviews Rose began to reveal the instructions given him by Canning; and when at last, on February 14, he announced that acts never done by Commodore Barron must be disavowed, an obstacle was raised which no abasement could surmount.†

On February 24 Madison informed Rose of two steps to be taken by the government bearing on the negotiation; the President would recommend to Congress that the army be increased to 10,000 men and that a levy of 24,000 volunteers be made. He added that these measures were to be considered as "measures of preparation, but not as leading to war, or as directed against any particular nation." He said further that an order had been issued to discharge all British subjects from national ships which was "an act of complaisance in its effects which he observed Great Britain could lay no claim to; which was done gratuitously, but from views of policy and fitness entertained by this government." On March 5 Madison sent his reply to Rose's note of January 26, saying he had been authorized by the President (should Rose approve the terms of repara-

tion) to concert with him a revocation of the President's proclamation of July of 1807.* In reply on March 17 Rose said that he could not enter into further negotiations.† This practically ended the matter, and four days later Rose took formal leave.‡

The effects of the Embargo soon became serious, particularly in the seaport towns where business rapidly decreased. Sail-makers, ship-wrights, and draymen were idle; the rope works were deserted; and the articles usually shipped in cargo quantities became drugs on the shippers' hands.¶

* *American State Papers, Foreign Relations*, vol. iii., p. 214-217; *Annals of Congress*, 10th Congress, 1st session, pp. 2695-2704.

† *American State Papers, Foreign Relations*, vol. iii., pp. 217-220; *Annals of Congress*, pp. 2704-2712.

‡ For the views of Gallatin and Smith, as given by Rose, see his report of March 22 to Canning, quoted in Adams, *United States*, vol. iv., pp. 197-198.

¶ Speaking of the appearance of New York, Lambert says: "The port, indeed, was full of shipping; but they were dismantled and laid up. Their decks were cleared, their hatches fastened down, and scarcely a sailor was to be found on board. Not a box, bale, cask, barrel, or package was to be seen upon the wharfs. Many of the counting houses were shut up, or advertised to be let; and the few solitary merchants, clerks, porters, and labourers that were to be seen, were walking about with their hands in their pockets. Instead of sixty or a hundred carts that used to stand in the street for hire, scarcely a dozen appeared, and they were unemployed; a few coasting sloops and schooners, which were clearing out for some of the ports in the United States, were all that remained of that immense business which was carried on a few months before. * * * The streets near the waterside were almost deserted, the grass had begun to grow upon the wharfs, and the minds of the people were tormented by the vague and idle rumours that were set afloat upon the arrival of every letter from England or from the seat of government."—*Travels through Canada and the United States*, vol. ii. pp. 64-65.

* See the letter in Adams, *United States*, vol. iv., p. 192. Cf. Madison's *Works* (Congress ed.), vol. ii., p. 413.

† Madison's *Works* (Congress ed.), vol. ii., p. 416.

Bands of idle sailors congregated in the streets, held meetings, paraded, and sent delegates to interview the officials of the various cities. In some instances (as at Philadelphia and New York) this scoured them work.* The farmers, too, were affected by the Embargo, for in expectation of a ready market and high prices they had purchased and planted more land, had worked their mills night and day to lay up a good stock, and in some cases held back their flour, hoping that the supply in the seaports would be quickly exhausted by shipments and that the price would rise. But the Embargo prevented all this and the farmers were left with large quantities of grain, flour, etc. on their hands. As a result, large numbers, particularly those living near the Canadian border, began in various ways to smuggle their produce across the border into Canada. So numerous and so bold did the evasions become that the members of the Committee on Commerce and Manufactures reported a bill further restricting commerce.† On February 19 the House went in Committee of the Whole to debate the second Supplementary Embargo Act, which was to stop by land and sea all commerce with the world. Much was said about

the expediency, the necessity, the justice, the hardships, and the futility of such a measure. The most violent attack on the bill was made by Barent Gardenier, of New York, who asserted that there was no connection between the original Embargo and this Supplementary Act, that the bill was not intended to lay an embargo but to prescribe non-intercourse; and that the original embargo was a fraud intended to trick the country into a permanent system of non-intercourse.*

When Gardenier finished his speech, the House rose. But the following Monday morning (February 22) several members declared that Gardenier's expressions were a slander, which, if he could produce no proofs, made their author an object of contempt.† The language of George W. Campbell, of Tennessee, on this occasion was so strong that Gardenier sent him a challenge. On March 2, at Blandensburg, the duel took place, Gardenier being severely wounded.‡

The bill passed both Houses and was approved by the President on March 12. It provided that all boats of five tons or under leaving port with a cargo should be bonded in twice the value of the boat and cargo that the cargo would be landed in the United States. If the boat had never been

* McMaster, vol. iii., pp. 289-290. See also Lamb, *City of New York*, vol. ii., pp. 542, 549-550.

† *Annals of Congress*, 10th Congress, 1st session, vol. ii., p. 1599; Schouler, *United States*, vol. ii., p. 194.

* *Annals*, p. 1654 *et seq.*

† *Ibid.*, p. 1660 *et seq.*

‡ Schouler, *United States*, vol. ii., pp. 183-184; Adams, *United States*, vol. iv., pp. 201-203; McMaster, vol. iii., pp. 295-296.

used in foreign trade, a bond equal to \$200 per ton was sufficient. Exportation by land was prohibited under penalty of forfeiture of the horses, wagons, and goods, and a fine not exceeding \$10,000.* In order to enforce the embargo and to place the country in a state of defence, several measures were enacted before the Tenth Congress rose. On February 25, 1808, Jefferson sent a message to Congress asking for an immediate addition of eight regiments to the regular army.† After a long debate, a bill was passed and approved on April 12 increasing the regular army by five regiments of infantry, one of riflemen, one of light artillery, and one of light dragoons, to serve for a period of five years.‡ Another bill (approved January 8, 1808) set aside \$1,000,000 for land fortifications; a third (approved January 17, 1808) continued the Mediterranean fund; a fourth (approved March 18, 1808) appropriated \$500,000 to purchase arms, saltpetre, and sulphur; a fifth (approved March 30, 1808) ordered 100,000 State militia to be in readiness to march at a moment's notice; a sixth (approved April 2, 1808) empowered the President to sell arms to the States; and a seventh (approved April 19, 1808) continued in force the Act of 1805 for

preserving peace in the harbors of the United States.*

Meanwhile, on February 2, 1808, Jefferson transmitted to Congress copies of the Orders in Council of November 11, 1807, "as a further proof of the increasing dangers to our navigation and commerce which led to the provident measures of the act of the present session laying an embargo on our own vessels." On February 26 he submitted to Congress "letters recently received from our ministers at Paris and London," which were "not to be published." The Milan Decree, with a brief matter-of-fact message, was sent on March 17. On the 22d he sent another message "relative to England and France," and on the same day a third message "with documents exhibiting a complete view of our differences with Great Britain and France" and a long catalogue of letters, acts, copies of treaties, instructions, extracts, etc. Other messages were sent on March 30 and on April 1 and 2.†

From these documents Congress could see that the time for talking of theories of peace and friendship and of ordinary commercial interests had passed. On February 23 Erskine had notified the government officially of

* For the debate see *Annals*, pp. 1694-1695, 1698-1713. For text see *Ibid.*, pp. 2839-2842. See also McMaster, vol. iii., p. 296.

† Richardson, *Messages and Papers*, vol. i., p. 441; *Annals*, pp. 1690-1691.

‡ *Annals*, pp. 2849-2852; Adams, *United States*, vol. iv., pp. 209-218.

* Schouler, *United States*, vol. ii., pp. 185-186. The text will be found in *Annals of Congress*, 10th Congress, 1st session, vol. ii., p. 2813 *et seq.*

† For the various messages see Richardson, *Messages and Papers*, vol. i., pp. 439, 441-442, 444, 445-447, 449. See also Report of the Secretary of State March 2, 1808, on the Impressment of Seamen, in *American State Papers, Foreign Relations*, vol. iii., pp. 36-79.

the existence and purpose of the Orders in Council. In a note to Madison (February 23) he repeated the words of Canning's instruction, assuring him that the United States had submitted to the French decrees and thereby had warranted England in prohibiting American commercial relations with France, that by not prohibiting but by merely limiting this commerce his Majesty had given proof of his amicable disposition; and that French and Spanish colonial produce might still be transported to England, whence under certain regulations it might be re-exported to the continent.*

Almost simultaneously Congress read the letter from Champagny to Armstrong, dated January 15, 1808, defending the Berlin and Milan decrees.† This letter irritated the Americans because it asserted truths which could not be denied. The temper excited by this letter obliged the President on April 2 to withdraw his injunction of secrecy. On April 8, as Congress was about to adjourn, Campbell, Chairman of the House Committee of Ways and Means, moved that the President be given power to suspend the Embargo until Congress met again.‡ The resolution was sent to the Committee of the Whole and debated day after day until April 19, when a bill came down from the Senate providing this very

power.* Campbell's resolution was thereupon dropped, and the Senate bill was passed, becoming law on April 22. Under this act the President was authorized to suspend the Embargo until twenty days after the next session of Congress began, in the event of a peace between the contending powers, or "if such changes in their measures affecting neutral commerce took place" as might "render that of the United States sufficiently safe."†

A few days afterward Jefferson signed a third Supplementary Act which made the Embargo still more stringent. A vessel, laden supposedly with New England rum, had sailed from Charleston to New Orleans, after giving bonds to land her cargo at the destination named. But instead of holding rum, the casks were filled with rice, which the skipper took to Havana and sold; then, purchasing a cargo of rum, he carried it to New Orleans. Obtaining a certificate from the collector at New Orleans that the cargo of rum had been landed, he presented his certificate on his return to Charleston and secured the release of his bond. It was to meet such emergencies as these that the above act was passed. Under the provisions of this act, which became effective April 25, 1808, ships could not secure clear-

* *American State Papers, Foreign Relations*, vol. iii., pp. 209-210; *Annals of Congress*, 10th Congress, 1st session, vol. i., pp. 181-183.

† *Annals*, pp. 183-184.

‡ *Ibid*, p. 2065.

* *Annals*, pp. 2083, 2172, 2198-2245; Benton, *Abridgment*, vol. iii., pp. 677-707.

† *Annals*, vol. ii., pp. 2859-2860; McMaster, vol. iii., pp. 297-298; Adams, *United States*, vol. iv., pp. 220-223; Tucker, *Life of Jefferson*, vol. ii., p. 625.

ances unless loaded in the presence of a revenue officer, nor could they sail for ports near foreign territory without special permission from the President. Navigation between ports of United States was forbidden to foreign-owned vessels; naval officers were enjoined from stopping and searching American vessels suspected of illegal traffic; but unusually large deposits of food and other merchandise in ports near foreign territory could be seized by the collectors.*

It was not very difficult to enforce the Embargo in the seaports and on the large bays, but on the Canadian border its enforcement was next to impossible. As the gains from its evasion were enormous, whole communities turned into smugglers and embargo breakers.† While smuggling was conducted all along the border, it was particularly prevalent at such convenient spots as Detroit, Buffalo, Lewiston, Sackett's Harbor, and above all Lake Champlain. Therefore, on receiving information that produce of every sort was being gathered on the lakeshore, that the most open and elaborate preparations were being made to break the Embargo, and that as soon as the officers should leave, great rafts filled with produce raised in Vermont would go down the

lake to Canada, Jefferson determined to try the effect of a proclamation. On April 19, 1808, he issued one declaring that "sundry persons are combining and confederating together on Lake Champlain and the country thereto adjacent for the purpose of forming insurrections against the authority of the United States for opposing the same and obstructing their execution." He therefore commanded the insurgents engaged in such combinations "instantly and without delay to disperse and retire peaceably to their respective abodes," ordering "all officials to quell and subdue such insurrections and combinations."** The Vermonters protested because, they said, the Embargo was laid on ocean trade and not on land trade, and because if such means of disposing of their merchandise were taken away, they would be reduced to the verge of starvation.†

The evils caused by the Embargo increased with time; still the policy of the Administration was not modified. "The inconvenience felt by the people of the United States from their own remedy was extreme," says Tucker, "and put their patriotism and firmness to a severe test." Tucker points out also how severely the Embargo affected England, and that each country being aware of the other's hardships, the contest resolved itself into a contest of strength and

* *Annals of Congress*, 10th Congress, 1st session, vol. ii., pp. 2870-2874; McMaster, vol. iii., p. 298; Gordy, *Political History*, vol. i., pp. 549-550. For the debate see *Annals*, pp. 361-363. See also Gallatin's letters respecting it, in Adams' ed. of Gallatin's *Writings*, vol. i., pp. 379-383.

† Robinson, *Vermont*, pp. 267-268.

* Richardson, *Messages and Papers*, vol. ii., pp. 450-451.

† McMaster, vol. iii., p. 297.

endurance between the two nations. It was urged that the merchants were the best judges of the question affecting their interests; that if they chose to expose their vessels to the risk of capture at sea, their chances of profitable trade should not be entirely cut off; and that the only favorable aspect of the Embargo was that it was better to endure its evils than those of war—it being deemed better to make the belligerents abandon their lawful pretensions peaceably than to go to war. Jefferson determined to try the experiment of peaceable coercion. On May 6, 1808, he wrote to Gallatin a letter containing general directions to detain in port every coasting vessel regarded as suspicious.* The same day he sent a circular letter to the governors of New Hampshire, Massachusetts, South Carolina, Georgia, and Orleans requesting them to issue certificates for such quantities of flour as were likely to be needed beyond their local supply; such certificates to be issued to “any merchant in whom you have confidence.”† On the 16th he suggested to Gallatin that collectors be directed to consider every shipment of provisions—flaxseed, pot and pearl ashes, lumber, tar, cotton, tobacco, flour, etc.—as sufficiently suspicious for detention here. No shipments of these articles were to be allowed unless wanted for consumption at destina-

tion.* The Federalists (basing their assumption on the vast number of permits issued) charged that the governors, under the President’s permission to bring in so much flour as was needed to prevent a bread famine, were selling the right to do so. Up to July 15 Governor James Sullivan had issued permits to the amount of 49,800 barrels of flour and 99,400 bushels of corn, besides rice and rye.† These permits soon became as much an article of commerce as government scrip and bank stock. Any one who had rendered Sullivan a political service or was friendly with him could secure a license for 100, 500, or 1,000 barrels. These licenses were sent to New York or Philadelphia, or to any port where flour had accumulated, and sold to the highest bidders, who were careful to make the shipment so slowly that the price in Boston would not fall. Gallatin therefore complained to the President,‡ who at once ordered the governor to discontinue issuing certificates.¶ It was not to be expected that New England would tolerate such dictation. On July 23 the governor sent to Jefferson a long dissertation on the diet of the people of Massachusetts. While admitting that the commercial laws were being evaded, he told the President that if

* Adams’ ed. of *Gallatin’s Writings*, vol. i., pp. 389–390. See also Adams, *United States*, vol. iv., pp. 252–253; McMaster, vol. iii., pp. 300–301.

† Gallatin to Jefferson, July 15, 1808; Adams’ ed. of *Gallatin’s Writings*, vol. i., p. 394.

‡ Gallatin’s *Writings*, vol. i., p. 418.

¶ Washington’s ed. of *Jefferson’s Works*, vol. v., p. 317.

* Washington’s ed. of *Jefferson’s Works*, vol. v., p. 287.

† *Ibid.*, vol. v., p. 285.

certificates should be refused, "an artificial and actual scarcity will involve this State in mobs, riots and convulsion pretendedly on account of the embargo. Your enemies will have additional triumphs, and your friends suffer new mortifications." Sullivan warned the President that the Embargo was aggravating the political situation in the State.

Jefferson, however, turned a deaf ear to Sullivan's explanation. The whole coast was patrolled by gunboats and frigates and the new army was stationed along the Canadian frontier.* This aroused considerable anger and the enforcement of these orders was resisted. At Newburyport an armed mob prevented the detention by the custom house officials of a vessel about to sail. Suits were started for illegal detention to harass the collectors and their officers, and rebellion, if not disunion, seemed to stare Jefferson in the face. Writing to Gallatin August 19, 1808, he said:

"That the Federalists may attempt insurrection is possible, and also that the Governor would sink before it; but the Republican part of the State, and that portion of the Federalists who approve the embargo in their judgments, and at any rate would not court mob law, would crush it in embryo. I have some time ago written to General Dearborn to be on the alert on such an occasion, and to take direction of the public authority on the spot. Such an incident will rally the whole body of Republicans of every shade to a single point—that of supporting the public authority."†

As winter approached the struggle between Jefferson and the Federalists of Massachusetts became mutually vindictive. In his eagerness for the Embargo, Jefferson forgot all law and arrogated to himself powers which, had a Federalist assumed them, he would have been the first to condemn. He put whole communities under ban, made himself commissary for the nation, and declared what and how much the people should eat. He stopped the voyage of every vessel "in which any person is concerned, either in interest or navigating her, who has ever been concerned in interest or the navigation of the vessel which has at any time before entered a foreign port contrary to the views of the embargo law, and under any pretended distress or duress whatever."²

The bakers of New York applied to the Secretary of the Treasury for permission to bring in southern flour, assuring him that the citizens of New York were opposed to eating bread from flour raised in their own State. Deeming this "equal to a libel on the produce and citizens of the State," Jefferson refused. The next application, said he, "will have vessels go to New York for the pippins of that State because they are higher flavored than the same species of apples growing in other States." ‡ Permission was refused to the people

* Gallatin to Jefferson, August 9, 1808, Adams' ed. of Gallatin's *Writings*, vol. i., pp. 402-405; also pp. 406-407.

† Washington's ed. of Jefferson's *Works*, vol. v., p. 346.

* Letter to Gallatin December 7, 1808, in Washington's ed. of Jefferson's *Works*, vol. v., p. 396.

† *Ibid.*, vol. v., p. 307.

of the Champlain region to run a packet on the lake because "this is [not] the time for opening new channels of intercourse with Canada and multiplying the means of smuggling."*

In the South the legality of Jefferson's orders was tested in the courts. About the time the embargo was laid a registered ship called the *Resource* had come to Charleston. Not wishing to let the vessel lay idle, the owner advertised for freight. All he secured was 600 bales of cotton; but as it would endanger the boat to go to sea with so light a load, he determined to take free of charge 200 barrels of rice as ballast. Application was then made to the custom house to give bonds and get a clearance. Although he believed that the voyage was to be made with honest intent and admitted that the Embargo laws did not warrant him in detaining the vessel, the clerk refused the clearance, pointing to Gallatin's circular letter for justification. The merchant then appealed for a mandamus, and toward the end of May of 1808, the case was submitted to the circuit court. Justice William Johnson, though a staunch Republican, decided that the act of Congress did not warrant the detention, issued the mandamus, denounced the circular letter, and said that it was for the collector acting under the law, and not for the President, to decide what should and

what should not go out of the port of Charleston.*

There might have been some consolation to the people, in the midst of privations and poverty, to have known that the Embargo was producing effects abroad. But even this comfort was denied them. When Parliament met on January 21, 1808, the war feeling was already subsiding, and that session was remarkable chiefly for the obstinate struggle over the Orders in Council.

On February 22 Canning addressed a note to Pinkney, the American minister, announcing that the British government meant to prohibit the export of American cotton to the continent of Europe.† Spencer Perceval thereupon introduced into the House a bill prohibiting the export of cotton, except by license, and this prohibition was extended to Jesuit bark or quinine. He succeeded in pushing these measures through the House, and by the middle of April his restrictive system was on the statute books. Yet, Perceval dreaded the effects of the Embargo which threatened to paralyze the most important industries in England and would make every possible concession short of abandoning his own great scheme of restriction. He suggested that an act be passed guaranteeing the safety of every merchant vessel, neutral or

* McMaster, vol. iii., pp. 302-303; Adams, *United States*, vol. iv., pp. 263-264.

† *American State Papers, Foreign Relations*, vol. iii., p. 208.

* Jefferson's *Works*, vol. v., p. 363.

belligerent, on a voyage to or from a British port.

Accordingly, on April 11, 1808, an order was issued directing the British naval commanders to molest no neutral vessels on a voyage to the West Indies and to South America, even though the vessel had no regular clearances or papers.*

Meanwhile, on April 30, Madison had authorized Pinkney to offer a withdrawal of the Embargo if England would withdraw the Orders in Council.† Though he received these instructions in June, he postponed the unpleasant task until late in August‡ which was a most inopportune moment, since England was then delirious with joy over the success of Arthur Wellesley, who had defeated Junot at Vimieiro.¶ On September 23 Canning replied, refusing to consider the President's advance. Canning's note, which Pinkney calls "insulting and insidious,"§ was undoubtedly worse than Pinkney describes it to be. Almost every sentence hinted that

Jefferson was Napoleon's tool, but in one passage he went beyond official propriety, saying:

"The Government of the United States is not now to be informed that the Berlin Decree of November 21, 1806, was the practical commencement of an attempt, not merely to check or impair the prosperity of Great Britain, but utterly to annihilate her political existence, through the ruin of her commercial prosperity; that, in this attempt, almost all the powers of the European continent have been compelled, more or less, to coöperate; and that the American embargo, though most assuredly not intended to that end (for America can have no real interest in the subversion of the British power and her rulers are too enlightened to act from any impulse against the real interests of their country) but by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of the 'blockade of the European continent' precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American Government would most effectually have contributed to its success."

Continuing his effort to belittle the American government in the eyes of its people and uttering a note of positive defiance, he concludes:

"His Majesty would not hesitate to contribute, in any manner in his power, to restore to the commerce of the United States its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal as a measure of inconvenient restriction upon the American people."*

On October 10, 1808, Pinkney answered Canning's letter with so much skill and force† that Canning

* Adams, *United States*, vol. iv., pp. 324-327.

† *American State Papers, Foreign Relations*, vol. iii., p. 222; *Annals of Congress*, 10th Congress, 2d session, pp. 1605-1606.

‡ For his letter to Canning see *American State Papers, Foreign Relations*, vol. iii., p. 228; *Annals of Congress*, pp. 1619-1621. For the results of previous interviews see his letter to Madison, August 4, 1808, in Pinkney, *Life of Pinkney*, pp. 201-208.

¶ From Paris Armstrong wrote to Madison, August 30, 1808, saying that the Embargo was not felt in France, and in England it was forgotten.—*American State Papers, Foreign Relations*, vol. iii., p. 256.

§ Wheaton, *Life of Pinkney*, p. 412.

* *American State Papers, Foreign Relations*, vol. iii., pp. 231-232; *Annals of Congress*, pp. 1625-1631.

† For the letter see *American State Papers, Foreign Relations*, vol. iii., pp. 233-237; *Annals of Congress*, pp. 1632-1643.

was obliged to reply, but his rejoinder of November 22, 1808, did not enhance his reputation.* These notes ended the diplomatic discussion, and Jefferson realized the futility of his scheme of peaceable coercion. Thus there seemed to be no alternative but war or submission.

In France the embargo furnished an excuse for the promulgation of a decree—the Bayonne Decree—which was worse than the Milan and Berlin decrees combined. The American Embargo prohibited the departure of vessels from any port in the United States, and therefore those ship captains who were then in foreign ports decided not to place their ships where they would be useless until the Embargo was raised, determining to stay abroad, take out British licenses, and run the risk of being captured by the French. As Napoleon was busy with his various enemies, all went well for some time. But soon, having disposed of Russia and Prussia, Napoleon turned his attention to Spain, drove Ferdinand VII. from the throne, and on June 15 crowned Joseph Bonaparte king of Spain.

Before this had happened, however, Napoleon formulated his plans to ruin England. The English navy and English commerce were to be driven from the Mediterranean, the Indian ocean, and American

waters. The navies of Spain, France, and Portugal were ordered to be reconstructed and great expeditions were to be sent to occupy Egypt, Syria, Buenos Ayres, and the East Indies. For these purposes Napoleon required not only the submission of Spain, but also the support of Spanish America and the United States. He seemed to consider the United States as a dependent government, and on April 17, when the ports of Europe were crowded with American ships, he issued the famous Bayonne Decree,* directing the customs house officials of Spain, Italy, France and the Hanse towns to seize every ship in port or that should make port flying the American flag. Armstrong at once demanded an explanation and was told not to be alarmed since Napoleon had no intention of annoying his good friends in America. He had been greatly pleased by the spirit shown by the American people in laying and enforcing the Embargo, and the purpose of the Bayonne Decree was to help them carry out their restrictions. The Embargo made it unlawful for American ships to engage in foreign trade; hence every vessel flying the American flag which entered a French port must either be an English vessel sailing under false colors or an American vessel serving the British cause. Both alike deserved confiscation—the first for

* *American State Papers, Foreign Relations*, vol. iii., pp. 237-239; *Annals of Congress*, pp. 1643-1649.

* *American State Papers, Foreign Relations*, vol. iii., pp. 291-292.

being an enemy in disguise, the other for violating the Embargo and the Milan Decree.

Meanwhile there had been no undue haste on the part of the government to answer Champagny's letter of January 15. Though sent to Congress near the end of March, Madison's instructions to Armstrong were not forwarded before May 2. In his letter Madison speaks first regarding the effect of Champagny's letter of January 15:

"That [letter] * * * has, as you will see by the papers herewith sent, produced all the sensations here which the spirit and style of it were calculated to excite in minds alive to the interests and honor of the nation. To present to the United States the alternative of bending to the views of France against her enemy, or of incurring a confiscation of all the property of their citizens carried into the French prize courts, implied that they were susceptible of impressions by which no independent and honorable nation can be guided; and to prejudge and pronounce for them the effect which the conduct of another nation ought to have on their councils and course of proceeding, had the air at least of an assumed authority not less irritating to the public feeling. In these lights the President makes it your duty to present to the French government the contents of Mr. Champagny's letter; taking care, as your discretion will doubtless suggest, that while you make that government sensible of the offensive tone employed, you leave the way open for friendly and respectful explanations, if there be a disposition to offer them, and for a decision here on any reply which may be of a different character."*

In June Turreau visited Madison to ascertain his feelings regarding an alliance with France, but the latter observed that it was the intention of the Federal government to be strictly

impartial between France and England. He said, however, that probably the next Congress would decide in favor of the power which should first recall the measures harassing American commerce.* Turreau then went to see Jefferson and reports the possibility of the repeal of the Embargo in favor of France, if she withdrew her decrees. With England, however, Jefferson said, no arrangement would be made until she renounced the right of impressment.†

Almost at the same time Armstrong was acting under the instructions Madison sent him on May 2. On June 10 he wrote to Champagny declining the proposed alliance and expressing the satisfaction which the American government felt at Napoleon's approval of a "cautionary occupation of the Floridas." Having read Armstrong's letter, Napoleon on June 21 wrote to Champagny directing him to inform the American minister that the French government did not know what was meant by "the occupation of the Floridas," and that the American government being at peace with the Spanish government, could not occupy the Floridas without Spanish permission. Upon receiving a note from Champagny to this effect, Armstrong answered in a formal note recalling Champagny's own words, but pursued the matter no further. Napoleon now began strictly to enforce the Bayonne De-

* *American State Papers, Foreign Relations*, vol. iii., pp. 252-253; *Annals of Congress*, 10th Congress, 2d session, pp. 1677-1679.

* Adams, *United States*, vol. iv., pp. 307-308.

† See his letter in *ibid.*, pp. 309-310.

cree. Not only did he seize American property in French ports, but French frigates at sea actually burned and sank many American ships. He would tolerate no remonstrance, and in an interview with one of the Livingstons (July 6) refused to abate any part of his system.*

Nevertheless the abatement of much of this system did follow certain developments in Spain. Though Joseph Bonaparte had been crowned king of Spain, he was a king without a country — a ruler without a people to rule. All Spain was in revolt against him. On July 20, though poorly led, undisciplined, and half armed, the patriots surrounded and captured some 20,000 French troops under General Du Pont in the Sierre Morena. A few days later the French fleet at Cadiz surrendered. A patriot Junta assumed the government, and on July 29 Joseph with the remainder of the French forces fled beyond the Ebro. This disaster was followed by another. On August 1 a British force under Arthur Wellesley landed near Lisbon and on the 21st defeated Junot at Vimieiro, with heavy loss. Never before had Napoleon received such a positive setback. At the same time the new government of Spain issued an order liberating every American ship seized in Spanish ports under the Bayonne Decree.†

News of the revolt was hailed with

delight in England, and its Orders in Council were repealed as far as they affected Spain. The news reached the New England States in August, and at a town meeting in Boston an address to the President was drafted calling upon him to suspend the Embargo, at least with respect to Portugal and Spain.* The proceedings of this meeting were laid before the Massachusetts towns for approval, but, to the mortification of the Federalists, many towns expressed disapproval. The selectmen of Salem wrote back that the Embargo was a wise measure;† from Worcester came a reply that the people were opposed to the sentiment of the address; at Lynn the people pronounced it inexpedient and unpatriotic to ask that the Embargo be repealed at that juncture; and the people of Pittstown, Maine, voted that the address was improper. Elsewhere the Federalists were more successful, and memorials were sent to the President from New Bedford, Augusta, Belfast, Plymouth, Newburyport, Taunton, Duxbury and other cities, but while

*Jefferson declined, however, saying: "To have submitted our rightful commerce to prohibitions and tributary exactions from others would have been to surrender our independence. To resist them by arms was war, without consulting the state of things or the choice of the nation." He said that the Embargo "besides saving to our citizens their property, and our mariners to their country" afforded the belligerent nations time to revise a conduct as contrary to their interests as it was to our rights. As to Spain, he said that her resistance would probably prove ineffectual.

†Schouler, *United States*, vol. ii., pp. 200-201.

*Adams, *United States*, vol. iv., p. 312.

†*Ibid.*, vol. iv., pp. 315-316; McMaster, vol. iii., pp. 311-312.

these resolutions were being discussed, the time to choose the electors of President and Vice-President had come, and the addresses were dropped for the more exciting pastime of election oratory.

The campaign had opened early in the year and was attended by what threatened to be a serious schism in the Republican party. Jefferson's letters written at this time show that the cares and responsibilities of office did not grow lighter.* Moreover, he smarted more than ever under the newspaper abuse and attacks of opponents in Congress, such as Randolph. Writing to Duane, he said:

"That there is only one minister who is not opposed to me is totally unfounded. There never was a more harmonious, a more cordial administration, nor even a moment when it has been otherwise. * * * That there is an ostensible cabinet and a concealed one, a public profession and a concealed counteraction, is false. That I have denounced Republicans by the epithet of Jacobins, and declared that I would appoint none but those called Moderates of both parties, and that I have avowed, or entertained any predilection for those called the third party, or *quids*, is in every tittle of it false. Our situation is difficult, and whatever we do is liable to the criticism of those who wish to represent it awry. If we recommend measures in a public message, it may be said that members are not sent here to obey the mandates of the President, or to register the edicts of a sovereign. If we express opinions in conversation, we have then our Charles Jenkinsons and back-door counsellors. If we say nothing, 'we have no opinions, no plans, no cabinet.' In truth, it is the fable of the old man, his son, and the ass, over again."

* Writing to Monroe, January 28, 1808, he said: "Five weeks more will relieve me of a drudgery to which I am no longer equal and restore me to a scene of tranquility amidst my family and friends, more congenial to my age and my inclinations."—Ford's ed. of Jefferson's *Writings*, vol. ix., p. 244.

To John Dickinson, on January 13, 1807, he wrote:

"I have tired you, my friend, with a long letter. But your tedium will end in a few lines more. Mine has yet two years to endure. I am tired of an office where I can do no more good than many others who would be glad to be employed in it. To myself personally, it brings nothing but unceasing drudgery, and daily loss of friends. Every office becoming vacant, every appointment made, *me donne un ingrat, et cent ennemis*. My only consolation is in the belief that my fellow citizens at large, give me credit for good intentions. I will certainly endeavor to merit the continuance of the good-will which follows well intended actions, and their approbation will be the dearest reward I can carry into retirement."*

Jefferson apparently always assumed that James Madison, his friend and the Secretary of State, was to be his successor,† and perhaps no other person of Presidential stature was so favorably regarded by the people generally. John Randolph, however, who had taken a strong dislike to the President, warmly urged Monroe to return from England (where he was then acting as ambassador) and to enter the contest for the Presidency.‡ Whatever he did in private, Jefferson publicly observed an appearance of impartiality in regard to the claims of his two friends.¶ While he warned Monroe against relying

* Ford's ed. of Jefferson's *Writings*, vol. ix., p. 10.

† Schouler, *United States*, vol. ii., p. 187.

‡ For the reasons which led Randolph to oppose Madison's elevation, see Garland, *Life of John Randolph*, vol. i., pp. 276-279. See also the letters quoted in Adams, *John Randolph*, pp. 196-198, 199-204, 213, 214-216, 216-218, 229, and 231-232.

¶ Schouler, *United States*, vol. ii., p. 127.

upon Randolph, "he abstained," says Tucker, "from any active measures in favor of either, and discharged the very delicate duties of friendship to the rivals with scrupulous fidelity; as was afterwards virtually acknowledged by both."* On January 21, 1808, a caucus was held at Richmond which was attended by 123 members of the State Legislature then in session. Though electors favorable to Madison were nominated, the friends of Monroe were not overawed; and, at Randolph's call, another caucus was held at which 57 members of the same Legislature nominated electors for Monroe.† To support the Virginia movement for Madison, a simultaneous caucus was held at Washington, where about the middle of January Senator Stephen R. Bradley, of Vermont, issued a printed circular inviting the Republican members of both Houses to meet in caucus on the evening of the 23d. There were 179 names on the rolls of the House and Senate, but, owing to dislike for the caucus system, only 89 members attended the caucus.‡ Those in attendance nominated Madison for the Presidency and George Clinton for the Vice-Presidency.|| John Randolph and 16 of his friends then pub-

lished a protest against the caucus and its candidates, but without avail.* George Clinton held Madison in contempt, and while Monroe was setting up his candidacy, Clinton set up one for himself in New York, and before long the public was treated to a curious spectacle. The regular party candidate for Vice-President had become an open rival of the regular party candidate for the Presidency. While Madison's friends were working for the election of Clinton as Vice-President under Madison, Clinton's newspapers were mercilessly attacking Madison. To make the opposition to Madison successful, it was necessary that his opponents support a common candidate. It was obvious, too, that either Monroe or Clinton must retire and transfer his votes to the other, while the Federalist party must be induced to abide by the choice thus made. This plan was not disagreeable to the Federalists, but while they waited for the Virginia and New York politicians to arrange the plan of campaign, they busied themselves with recovering control of New England, where they had been partially driven from power. The Embargo promised them almost certain success.

The Federalists had charged Jefferson with subservience to Napoleon from the moment the scheme was broached. The French ambassador, Turreau, was convinced, however, that Jefferson was trying to divert public

* See Jefferson's various letters to Monroe in Ford's ed. of *Jefferson's Writings*, vol. ix., p. 176 *et seq.*

† Stanwood, *History of Presidential Elections*, p. 52.

‡ McMaster, vol. iii., pp. 314-315. See also Channing, *The Jeffersonian System*, pp. 221-222; Stanwood, *Presidential Elections*, pp. 52-53.

|| Schouler, *United States*, vol. i., pp. 188-189.

* Schouler, vol. ii., p. 189.

anger from England to France in order to make easier the negotiations with Rose, of which, too, we have already spoken. The negotiations themselves seemed to confirm Turreau in this opinion.* On the failure of Rose's mission, the British envoy more closely cultivated the friendship of Senator Pickering, even following his advice. Writing to Canning, March 4, 1808, Rose said that judging from conversations with the "best and most enlightened men" of the United States, England should avoid war, since the people would naturally rally to the aid of the government. The Embargo would do the work more effectively than war and the effects of self-inflicted punishment would bring the people into coöperation with Great Britain, whereas retaliation by England would turn them irrevocably against her.†

These "best and most enlightened men" were Senator Pickering and his friends. As Rose was about to depart, Pickering handed him a number of letters from prominent New England Federalists.‡ The manner in which the Embargo had been passed had convinced Pickering that it was a French measure designed to provoke England to war. If war should be declared, the commercial States would be the chief sufferers and the Repub-

licans the chief gainers. It could not be doubted that with dangers threatening the government, the people would rally to defend the country and the old hatred of England would be revived. The United States would never declare war, allowing England to begin it. Therefore, if England would be patient a little longer and bear with the violence of the Republicans, the measures advocated by the latter to bring on war would recoil on themselves. The people would be imperilled by their own weapons, and goaded on by the insults and injuries offered by France, they would turn on the Administration and drive the Republicans from office. When the Federalists came back to power the interests of the United States would be identified with those of Great Britain.* Pickering thus set himself the task of inducing Rose to persuade Canning to let the United States

* Adams, *New England Federalism*, p. 366. Concerning this Jefferson wrote to Dr. Leib, June 23, 1808, as follows: "They are now playing a game of the most mischievous tendency, without perhaps being themselves aware of it. They are endeavoring to convince England that we suffer more from the embargo than they do, and if they will but hold out a while we must abandon it. It is true, the time will come when we must abandon it. But if this is before the repeal of the Orders in Council, we must abandon it only for a state of war. The day is not distant when that will be preferable to a longer continuance of the embargo. But we can never remove that, and let our vessels go out and be taken under these orders, without making reprisals. Yet this is the very state of things which these Federal monarchists are endeavoring to bring about; and in this it is but too possible they may succeed. But the fact is, if we have war with England, it may be solely produced by these manœuvres."

† See his letter to Champagny, May 20, 1808, quoted in Adams, *United States*, vol. iv., pp. 229-230.

‡ See the letter in Adams, *United States*, vol. iv., pp. 232-233.

§ Schöner, *United States*, vol. ii., pp. 202-203.

alone, and in doing this he deliberately violated a statute of the United States, known as the Logan Act, by carrying on with an agent of a foreign government intercourse and correspondence with the intent to defeat what he believed to be the policy of the United States government. Under the provisions of that law he should have been fined \$5,000 and imprisoned for three years. Again and again he assured Rose that no matter how eager the United States might seem to provoke a war, she had no desire to declare one, and that the true policy of England was to let us alone, to maintain a dignified attitude, and to abstain from war.

When at last Rose was about to return home, Pickering gave him letters from George Cabot and Rufus King proving that he was not alone in his opinion, and requesting that Samuel Williams, of London, be made "the medium of whatever epistolary intercourse may take place between you and me."* These suggestions, in almost the very words of the Massachusetts Senator, were repeated to and urged on Canning.†

Pickering believed that his end, bringing his friends into power, justified the means. For this purpose he offered himself to Canning as an instrument for organizing what was in fact a British party in New Eng-

land. He knew that his conduct was illegal, but thought Jefferson's alleged secret alliance with Napoleon a sufficient justification for his own disregard of the law. In the spring of 1808 the Massachusetts elections were held to choose a Senator in place of John Quincy Adams. On February 16 Pickering sent a note to Governor Sullivan in which he entered into the history of the Embargo. On mentioning of the Orders in Council, he said that the official reasons presented in the President's Embargo message did not justify the measure and that therefore there must be some secret motive. He believed it high time that the State Legislature knew the facts and reasons on which important general laws were founded and especially that those States whose farms were on the ocean and whose harvests were gathered in every sea should consider immediately and seriously how to preserve them. Pickering's letter struck especially hard at John Quincy Adams, who, while disliking and distrusting the President, had supported the Embargo. Adams attended the Republican caucus of January 23 and voted for George Clinton as President; and when Pickering published his letter of February 16, Adams instantly took up the challenge. In a letter to Harrison Gray Otis, March 31, 1808, he summarized the history of the Embargo, pointed out its relation to the Orders in Council, recapitulated the long list of British outrages, fiercely attacked the British

* Adams, *New England Federalism*, pp. 366-368.

† McMaster, vol. iii., pp. 283-285; Adams, *United States*, vol. iv., p. 234 *et seq.*

proclivities of Pickering and his friends, and called upon them to choose between Embargo and war.* Thus the issue was sharply drawn between the British and American parties in the United States. Governor Sullivan was reëlected, but the Federalists had a decided majority in the new Legislature which immediately replaced Adams in the Senate by James Lloyd† and adopted resolutions condemning the Embargo.‡ Thus the great State of Massachusetts fell back into Federalism.||

There seems to be little doubt of the existence of a strong British party in New England, for at this time the British government through Sir James Craig, Governor-general of Canada, was in correspondence with John Henry, an Englishman then traveling in New England. Writing from Boston on March 10, Henry said:

"The men of talents, property, and influence in Boston are resolved to adopt without delay every expedient to avert the impending calamity, and to express their determination not to be at war with Great Britain in such a manner as to indicate resistance to the government in the last resort. * * * Very active, though secret, measures are taken to rouse the people from the lethargy which if long continued must end in their subjection to the modern Attila."

On the 18th Henry wrote that the

* Quincy, *Memoir of John Quincy Adams*, pp. 38-40.

† The vote in the Senate was 21 for Lloyd and 17 for Adams and in the House 248 for Lloyd and 213 for Adams. See Morse, *John Quincy Adams*, p. 57.

‡ Quincy, *Memoir of John Quincy Adams*, p. 40.

|| Schouler, *United States*, vol. ii., pp. 203-204.

fear of war had vanished and that Jefferson meant to compel England to rescind her Orders in Council by means of the Embargo and a system of retaliation.

"It is, however, to be expected that the evil will produce its own cure, and that in a few months more of suffering and privation of all the benefits of commerce, the people of the New England States will be ready to withdraw from the Confederacy, establish a separate government, and adopt a policy congenial with their interests and happiness. For a measure of this sort the men of talents and property are now ready, and only wait until the continued distress of the multitude shall make them acquainted with the source of their misery, and point out an efficient remedy."

On April 11 Henry wrote again:

"I attended a private meeting of several of the principal characters in Boston, where the questions of *immediate* and *ultimate* necessity were discussed. * * * The measure of ultimate necessity which I suggested I found in Boston some unwillingness to consider. It was 'that in case of a declaration of war the State of Massachusetts should treat separately for itself, and obtain from Great Britain a guaranty of its integrity.' Although it was not deemed necessary to decide on a measure of this sort at that moment, it was considered as a very probable step in the last resort. In fine, every man whose opinion I could ascertain was opposed to a war, and attached to the cause of England."

In a final letter of April 25, Henry said:

"Whether this confederacy of the men of talents and property be regarded as a diversion of the power of the nation, as an efficient means of resistance to the general government in the event of a war, or the nucleus of an English party that will soon be formidable enough to negotiate for the friendship of Great Britain, it is in all respects very important; and I have well-founded reason to hope that a few more months of suffering and suspension of everything collateral to commerce will reconcile the multitude to any men and any system which will promise them relief."*

* Adams, *United States*, vol. iv., pp. 243-247.

These letters were forwarded by the person to whom they were addressed to Lord Castlereagh, and if he had doubted the sincerity of the Federal leaders in their professions of a desire for peace, these letters might well have removed his doubts.*

The spring elections seemed to presage defeat for the Republicans in the coming Presidential elections. In May the elections were held in New York State and the Federalists made large gains in the Legislature. This completely discouraged Gallatin, who expected to see the Republicans turned out on March 4. In a letter he said that Vermont was lost, New Hampshire was hopeless, and Pennsylvania extremely doubtful.† On August 6 he wrote to Jefferson that the only sound States were Virginia, South Carolina, the Western States, and perhaps Georgia.‡ But now the tide turned. Up to this time the Federalists had nominated no candidate, as the leaders of that party had been striving to persuade DeWitt Clinton to join them in supporting his uncle, George Clinton, for the Presidency. This he finally refused to do, and accordingly the Federalists nominated C. C. Pinckney, of South Carolina,

and Rufus King, of New York, for Vice-President.* From the moment his opponents split in this way, Madison had nothing to fear. Though State after State went over to the Federalists, the general election was but slightly affected. In Vermont a Federalist governor was elected in September, but the Legislature was Republican and electors were chosen for Madison. In New Hampshire and Rhode Island, Presidential electors were chosen by popular vote and in both States fair majorities were given to the Pinckney electors. In Massachusetts and Connecticut the legislatures chose Federalist electors. But when New York and Vermont chose their electors, all chance of overthrowing Madison was lost. The wave of Federalist success stopped short of New York. Pennsylvania was solidly Democratic; Monroe was obliged to retire from the field in Virginia; and, though DeWitt Clinton took from Madison 6 of the 19 electoral votes of New York and gave them to Vice-President Clinton, Madison obtained the other 13 and was assured of election. The election resulted as follows:†

* Schouler, *United States*, vol. ii., p. 205.

† *Ibid.*, vol. ii., p. 519; Stanwood, *History of Presidential Elections*, p. 56; *Annals of Congress*, 10th Congress, 2d session, p. 344; Benton, *Abridgment*, vol. iv., p. 27.

* McMaster, vol. iii., pp. 285-286.

† Adams, *Life of Gallatin*, p. 373.

‡ *Ibid.*, p. 373. See also Adams' ed. of Gallatin's *Writings*, vol. i., p. 402.

Electoral votes	STATES	PRESIDENT			VICE-PRESIDENT			
		James Madison, Virginia	George Clinton, New York	C. C. Pinckney, South Carolina	George Clinton, New York	James Madison, Virginia	James Monroe, Virginia	John Langdon, New Hampshire
7	New Hampshire			7				7
19	Massachusetts			19				19
4	Rhode Island			4				4
9	Connecticut			9				9
6	Vermont	6						6
19	New York	13	6		13	3	3	
8	New Jersey	8						
20	Pennsylvania	20			20			
3	Delaware			3				3
11	Maryland	9		2	9			2
21	Virginia	21			21			
14	North Carolina	11		3	11			3
10	South Carolina	10			10			
6	Georgia	6			6			
7	Kentucky	7			7			
5	Tennessee	5			5			
3	Ohio	3						3
175	Total	122	6	47	113	3	3	9

Corresponding changes marked the Congressional election. But though the Federalists doubled their number of Congressmen, they were still unable to overcome the Republican majority.*

Just when the Presidential elections were about to take place Congress met and the matter came to a crisis. The Embargo had been a failure and Jefferson knew it. He knew that his own party would not support it, that his staunchest friends would not listen to his advice, and that even Virginia had deserted him. All seemed to be discouraged and the letters of W. C. Nicholas, Monroe, and Marshall reflect the general sentiment.† Jefferson himself admitted that the Embargo had been a failure, for the night before retiring from office he admitted that the United

States was poorer by fifty millions of exports, "the treble of what war would have cost us." On March 8, 1809, he wrote to William Short:

"Our embargo has worked hard. It has in fact federalized three of the New England States. Connecticut you know was so before. We have substituted for it a non-intercourse with France and England and their dependencies, and a trade to all other places. It is probable the belligerents will take our vessels under their edicts, in which case we shall probably declare war against them."*

Knowing that his party would not longer support the Embargo, Jefferson determined to propose no measures which his successor would have to carry out.‡ Accordingly he completely ignored the Embargo in his annual message of November 8, 1808.‡

* Ford's ed. of Jefferson's *Writings*, vol. ix., pp. 249-250. For Adams' view of this matter see his *Works*, vol. ix., p. 607.

† See his letters to Lincoln and Logan in Washington's ed. of Jefferson's *Works*, vol. v., pp. 387, 404.

‡ For which see Richardson, *Messages and Papers*, vol. i., pp. 451-456; Ford's ed. of Jeffer-

* Adams, *United States*, vol. iv., pp. 283-287; McMaster, vol. iii., pp. 316-317.

† Lodge, *Life and Letters of Cabot*, p. 489.

He preferred to dwell on our relations with foreign powers, the measures for increasing the militia, fortifying the sea coast, manufacturing guns, building up a navy, and keeping down the public debt. During the year the Treasury receipts approximated \$18,000,000. Thus the government, after meeting current expenses, was able to pay \$2,300,000 of the principal of the funded debt and still have \$14,000,000 remaining in the Treasury. As \$5,350,000 of this sum would be paid out January 1 to cancel more of the public debt, the total payments for the preceding six years and a half would amount to \$33,580,000. Jefferson was perplexed as to what to do with the surplus. He wondered —

“ Shall it lie unproductive in the public vaults? Shall the revenue be reduced? Or shall it not rather be appropriated to the improvement of roads, canals, rivers, education, and other great foundations of prosperity and union under the powers which Congress may already possess of such amendments of the Constitution, as may be approved by the States? While uncertain of the course of things, the time may be advantageously employed, in obtaining the powers necessary for a system of improvement should that be thought best.”

Confounded by his silence on the subject of Embargo, the House sent so much of his message as related to foreign affairs to a committee (of which George W. Campbell, of Tennessee, was chairman) to map out a course of action. Campbell turned to Madison and Madison to Gallatin,

who then called on Jefferson to summon the Cabinet to decide on a definite course of action.* Failing to obtain guidance from the President, Gallatin in despair wrote out a document which the committee presented to the House on November 22 and which is known as Campbell's report.† Before the committee made its report, however, member after member had presented resolutions of a most contradictory kind. On November 10 Martin Chittenden, of Vermont, demanded a total repeal of the embargo‡; Eppes, of Virginia, favored non-intercourse with Great Britain and France and the arming and equipping of more militia||; Elliot, of Vermont, called for the instructions issued to revenue collectors regarding the execution of the laws§; while another member requested a list of all orders, decrees, and proclamations affecting the commercial rights of neutrals which had been issued by England and France since 1791.¶ Motions were introduced forbidding vessels not owned and manned by citizens of the United States to go from port to port along the coast,** and others permitting

* Adams' ed. of *Gallatin's Writings*, vol. i., p. 428.

† *American State Papers, Foreign Relations*, vol. iii., pp. 259-262; *Annals of Congress*, 10th Congress, 2d session, pp. 514-521; Adams' ed. of *Gallatin's Writings*, vol. i., pp. 435-446.

‡ *Annals of Congress*, 10th Congress, 2d session, pp. 474-476.

|| *Ibid.* p. 478.

§ *Ibid.* pp. 478, 483.

¶ *Ibid.* p. 482.

** *Ibid.*

son's *Writings*, vol. ix., pp. 213-225; *Annals of Congress*, 10th Congress, 2d session, pp. 11-15; Benton, *Abridgment*, vol. iv., pp. 3-5.

merchants to arm their ships and send them to countries not under English or French jurisdiction. Such motions as went before the Committee of the Whole for consideration were voted down since the Republicans were determined to take no action before Campbell should make his report.*

This report was made on November 22. It embodied three resolutions: First, that the United States could not submit to the edicts of France and England without sacrificing rights, honor, and independence; second, that the United States ought to prohibit by law the admission into her ports of any ships, goods, or merchandise of the belligerents, or of any power which obeyed the decrees violating the commerce and neutral rights of the United States; and third, that the country should be placed at once in a better state of defence.† On the 28th debate on these resolutions began in the House. The attack of the New England men was led by Josiah Quincy, who on that day fell upon the report with a fury not easily forgotten.‡ On the other hand, men like John G. Jackson, of Virginia, George M. Troup, of Georgia, Willis Alston, Jr., and Nathaniel Macon, of North Carolina, David Williams, of South

Carolina, and Richard M. Johnson, of Kentucky, warned the National Legislature against plunging the country into a war for which it was utterly unprepared simply to gratify a few ruined commercial speculators.* Day after day the debate continued until December 17, when a vote was called. The result was the adoption of Campbell's first resolution by a vote of 118 to 2, of the second by a vote of 84 to 30, and of the third unanimously.†

While Jefferson was talking of surpluses and deprecating "painful alternatives," Secretary of the Treasury Gallatin was calling upon Congress to declare war against the two greatest powers in the world and promising to support it without imposing a single internal tax. As head of the Treasury, it was Gallatin's duty to submit to Congress every year a statement of receipts and expenses, and in making his report in 1808 he took the opportunity to call for war. From the fact that the Secretary leaned toward war, it was generally believed that he was to be Madison's chief advisor. His report was therefore regarded as a sort of first message from the new President, and the closer it was studied the clearer appeared its war-budget character. On January 1, 1809, Gallatin said there would be \$16,000,000 in the

* McMaster, vol. iii., p. 319; Schouler, *United States*, vol. ii., pp. 207-208.

† *Annals*, pp. 520-521; Schouler, *United States*, vol. ii., pp. 208-209.

‡ For his speech see *Annals*, p. 538 *et seq.*

* For excerpts from their speeches see Adams, *United States*, vol. iv., pp. 374-382. For the entire debate see *Annals*, pp. 530-812, 816-895; Benton, *Abridgment*, vol. iv., pp. 48-95.

† Schouler, *United States*, vol. ii., p. 209.

Treasury. Of this \$13,000,000 would have to be set aside for the ordinary annual appropriations, leaving a surplus of \$3,000,000 to defray the cost of warlike preparations. He then discussed the financial effect of the three alternatives which lay before Congress: (1) complete or partial submission to the belligerents, (2) continuance of the embargo without war (in which case the government could be supported for two years by merely borrowing \$5,000,000), and (3) a declaration of war against one or both of the belligerents (in which case Gallatin merely wanted leave to contract loans).^{*} It was evident that the incoming Administration was ready for war and that if Congress would grant it power to borrow money, the war would be waged without the aid of any internal taxes. It is evident also that Jefferson, Madison, and Gallatin were agreed that the Embargo must be maintained and enforced. They said that the voluntary abandonment of the Embargo was an act of submission to England and France destructive to our national self-respect. But if the Embargo were continued, new legislation was necessary. On November 24, 1808, Gallatin wrote a letter to Senator Giles, of the Senate committee, requesting such legisla-

tion,^{*} and on December 8 Giles introduced a force bill in the Senate.[†] Though the powers granted under the force act were arbitrary and considered by some even "quite dangerous and odious," the Senate by a vote of 20 to 7,[‡] passed the bill on December 21 and the next day sent it to the House.^{||} On January 5, after argument intermingled with threats, the House passed the force act by a vote of 71 to 32,[§] the Senate concurring two days later[¶] and Jefferson signing it January 9. This bill forbade carrying goods, merchandise, wares, or specie out of the United States or loading such articles into any kind of water craft without a collector's permission (such loading always to be done in the presence of an inspector), and a bond equal to six times the value of the ship and cargo as surety not to sail without a clearance. The collectors were empowered to seize such articles found on any water craft, wagon, cart, or sleigh going toward any foreign territory, and the President was authorized to use the army to enforce the act on land and

^{*} See his annual report December 16, 1808, *American State Papers, Finance*, vol. ii., p. 307-309; *Annals of Congress*, 10th Congress, 2d session, pp. 1760-1766. See also Bolles, *Financial History*, pp. 219-220.

^{*} *American State Papers, Commerce and Navigation*, vol. i., pp. 730-732; *Annals of Congress*, 10th Congress, 2d session, pp. 232-236; Adams' ed. of Gallatin's *Writings*, vol. i., pp. 428-435.

[†] *Annals*, pp. 231, 238-239; Benton, *Abridgment*, vol. iv., p. 21.

[‡] For the debate see *Annals*, pp. 241-298; Benton, pp. 21-26.

^{||} *Annals*, p. 903; Adams, *United States*, vol. iv., pp. 398-400; Schouler, *United States*, vol. ii., pp. 209-210.

[§] *Annals*, pp. 910, 915-938, 974-975, 982-1025.

[¶] *Ibid.*, pp. 310-319.

to hire, arm, and equip 30 vessels to enforce it off the coast.

This bill thoroughly aroused the anger of the New England States and open rebellion ensued. Committees of correspondence and safety were formed, conventions were held, memorials to the legislatures and to Congress were drafted,* and even armed resistance was indulged in.† Finally, as Tucker says, the Administration and the majority who supported it were diverted from trying the Embargo a few months longer by fear of the surging New England discontent which threatened not only the authority of the laws, but the contin-

nance of the Union itself. Tucker continues:

"It has appeared by subsequent disclosures, that in the month of February, Mr. John Quincy Adams, who had supported the Administration in the embargo and other measures of policy, ever since the affair of the *Chesapeake*, and who, finding his course was not approved by the legislature of Massachusetts, had resigned his office of Senator, made to the president the following communication:—that from information received by him, and which might be relied on, it was the determination of the ruling party in Massachusetts, and even New England, if the embargo was persisted in, no longer to submit to it but to separate themselves from the Union, at least until the existing obstacles of foreign commerce were removed; that the plan was already digested, and that such was the pressure of the embargo on the community, that they would be supported by the people. * * * The danger thus threatening the Union was deemed paramount to all other considerations, and the president, with his cabinet, concluded that it would be better to modify their interdiction of commerce in such a way, that while employment was afforded to American vessels, Great Britain and France should still feel the loss of American commerce."*

*The remonstrance of Massachusetts is in *Annals of Congress*, 10th Congress, 2d session, pp. 444-450.

† For details see McMaster, vol. iii., pp. 327-333; Adams, *United States*, vol. iv., chap. xviii; Channing, *The Jeffersonian System*, p. 224 *et seq*; Schouler, *United States*, vol. ii., p. 213. "It is a melancholy reflection—a subject that excites our best and inmost feelings—that projects in speculations, as to a dissolution of this union, have been so frequently indulged. That leading men in Virginia looked to a dismemberment in 1798-9, when the armory was built, etc., that Burr and his confederates had an eye to the establishment of a western government, in 1805-6—that many contemplated the building up of the 'nation of New England' from 1808 to 1815—and that now [1828] some in the South are calculating a division at the Potomac, seems to us undoubted; but the lengths to which either party proceeded or will proceed rests very much on conjecture, or depends on opinion. * * * These are fearful things to think of. But whatever have been, or may be, the designs of individuals, we have always believed, and yet trust, that the vast body of the people ever have been, and are, warmly attached to the Union; and that it never perhaps was really more strong than when it seemed most endangered, even during the darkest period of the late war."—*Niles' Register*, vol. xxxv., p. 210.

Much doubt has been expressed as to Mr. Adams' accuracy on the point in question, but there is now ample proof that he was correct. A Boston memorial dated January 25, 1809, contains the following:

"Our hope and consolation rest with the Legislature of our state, to whom it is competent to devise means of relief against the unconstitutional measures of the general government; *that your power is adequate to this object is evident from the organization of the confederacy.*"

The *Boston Centinel* said:

"This perpetual embargo being unconstitutional, every man will perceive that he is not bound to regard it, but may send his produce or merchandise to a foreign market in the same manner as

* See also Von Holst, *Constitutional and Political History*, vol. i., pp. 221-223 and notes.

if the government had never undertaken to prohibit it. If the petitions do not produce a relaxation or removal of the embargo, the people ought immediately to assume a higher tone. The government of Massachusetts has also a duty to perform. The state is *still sovereign and independent.*"

The *Boston Gazette* said:

"It is better to suffer the amputation of a limb than to lose the whole body. We must prepare for the operation. Wherefore, then, is New England asleep? Wherefore does she *submit to the oppression of enemies in the South?* Have we no Moses who is inspired by the God of our fathers and who will lead us out of Egypt?"

The *Boston Repertory* said:

"We know if the embargo be not removed, our citizens will ere long set its penalties and restrictions at defiance. It behooves us to speak, *for strike we must if speaking does not answer.*"

In a handbill circulated at Newburyport were the following sentences:

"Let every man who holds the name of America dear to him stretch forth his hand and put this accursed thing, the embargo from him. Be resolute; act like the sons of liberty, of God, and of your country; nerve your arms with vengeance against the despot who would wrest the inestimable gem of your independence from you, and you shall be conquerors."

The letters of prominent Federalists also prove conclusively that there was a plan on foot to combine the Eastern States against the embargo. Pickering urged it in his famous letter and New England now seemed ripe for the scheme. Writing to Josiah Quincy, December 15, 1808, Harrison Gray Otis, president of the Massachusetts Senate, said:

"It would be a great misfortune for us to justify the obloquy of wishing to promote a separation of the States, and of being solitary in that

pursuit. * * * On the other hand, to do nothing will seem to be a flash in the pan, and our apostate representatives will be justified in the opinions which they have doubtless inculcated of our want of union and of nerve. What then shall we do? In other words, what can Connecticut do? For we can and will come up to her tone. Is she ready to declare the embargo and its supplementary claims unconstitutional; to propose to their State the appointment of delegates to meet those from the other commercial States, in convention at Hartford or elsewhere, for the purpose of providing some mode of relief that may not be inconsistent with the union of these States, to which we should adhere as long as possible? Shall New York be invited to join and what shall be the proposed objects of such a convention?"*

Christopher Gore wrote in a similar strain to Pickering, on December 20, 1808:

"Our legislature will convene on January 24 and what will be proper for us to do under the circumstances of our times is doubtful. To ascertain the most useful course to be pursued on this occasion fills our minds with deep and anxious solicitude. * * * By conversing with our friends from other New England States you might be able to know in what measures and to what extent they would be willing to coöperate with Massachusetts. The opposition, to be effectual of any change in our rulers, should comprehend all New England. These men, I fear, are too inflated with their own popularity to attend to any call short of this."†

In replying to Gore (January 18, 1809), Pickering agreed that "New England must be united in whatever great measure shall be adopted," and said:

"A convention of delegates from those States, including Vermont, seems obviously proper and necessary. Massachusetts and Connecticut can

* Quincy, *Life of Quincy*, p. 164.

† Adams, *New England Federalism*, p. 375. The remonstrance framed when the Legislature met and presented to Congress, February 27, 1809, is in *American State Papers, Commerce and Navigation*, vol. i., pp. 776-778.

appoint their delegates with regular authority. In the other States they must be appointed by county conventions. A strong and solemn address, stating as concisely as will consist with perspicuity the evil conduct of our administration as manifested in their measures, ought to be prepared to be laid before our legislature when they meet, to be sent forth by their authority to the people. But the fast, which I have repeatedly heard mentioned here, I hope will be postponed till the very crisis of our affairs, if such a crisis should be suffered to arise. To proclaim a fast sooner would, I fear, have more the appearance of management than of religion."*

Before the end of the year it was well known at Washington that Massachusetts and Connecticut intended to take the first step toward a change in the Federal compact.† Writing to Nicholson, December 29, Gallatin said:

"I actually want time to give you more details, but I will only state that it is intended by the Essex Junto to prevail on the Massachusetts Legislature, who meet in two or three weeks, to call a convention of the five New England States, to which they will try to add New York; and that something must be done to intercept and defeat that nefarious plan."‡

The signs of the times impelled Congress to take some action on the Embargo. An attempt to repeal the act had already been made by the Senate. Early in the session (November 11) Hillhouse had moved and earnestly advocated the repeal of the act.‖ His motion was opposed by

the Republican Senators with equal earnestness,* Giles making an especially fervent speech.† When the vote was taken on December 2, Hillhouse's resolution was lost by a vote of 25 to 6.‡ But the Federalists, emboldened by popular indignation, then made a determined attack on the Embargo. On January 30 Wilson Cary Nicholas took the lead in the House and called up a resolution intended to settle the Embargo. The debate centered on the day on which the Embargo should be removed. Nicholas moved that June 1 be named; some would have it March 4, when the new Administration should come into office; others clamored for its immediate repeal; while some favored its retention. After a debate lasting four days, a large majority was found to favor March 4.‖ It was then decided at a caucus of the Republican members that the Embargo be repealed, that letters of marque and reprisal be discontinued, and that Non-intercourse should be the future policy. On February 11 the Committee on Foreign Affairs reported a bill to the House which after amendment

* For the debate see *Annals of Congress*, 10th Congress, 2d session, p. 29 *et seq.*, 1577-1594; Benton, *Abridgment*, vol. iv., p. 10 *et seq.*

† *Annals*, pp. 93-126; Benton, *Abridgment*, pp. 18-20.

‡ *Annals*, pp. 230-231.

‖ For the debate in the Senate see *Annals*, pp. 353-409; in the House, *ibid.*, pp. 1230-1421; Schouler, *United States*, vol. ii., p. 218; Von Holst, *Constitutional and Political History*, vol. i., p. 216.

* Adams, *New England Federalism*, p. 376.

† For the acts of these two States see Schouler, *United States*, vol. ii., p. 214 *et seq.*

‡ Adams, *Life of Gallatin*, p. 384; Adams' ed. of Gallatin's *Writings*, vol. i., p. 449.

‖ *Annals of Congress*, 10th Congress, 2d session, pp. 16, 20-29; Benton, *Abridgment*, vol. iv., pp. 5-10.

passed both House and Senate.* This act, known as the Non-Inter-course Act and signed by Jefferson on March 1,† closed United States ports to the public ships of France and England on the day of its passage, and to private ships of the two nations on May 20. Many of the Embargo laws were to be inoperative after March 15; it was not necessary that ships be loaded in the presence of a collector nor that bonds be given to guarantee the cargoes' landing in the United States. But while ships

were free to trade with any foreign ports except those of France and England, their colonies, and places under their flags, the law provided that bonds should be given not to trade directly or indirectly with the forbidden places. If England or France, however, should revoke their decrees or orders, that law might be suspended and trade renewed upon proclamation by the President. The law was to continue in force only until the end of the next session of Congress, when the Embargo Act, the Supplementary Act, and the Force Acts were to expire all at once.*

This was the last important act of Jefferson's administration; on March 3 his term ended and the Tenth Congress closed its second session.

* For the debate in the Senate see *Annals*, pp. 414-436; Benton, *Abridgment*, vol. iv., pp. 28-31; in the House, *Annals*, pp. 1426-1429, 1432, 1437-1542; Benton, pp. 107-114.

† Acts of 10th Congress, 2d session, chap. xxiv.; *Annals of Congress*, 10th Congress, 2d session, pp. 1824-1830; *United States Statutes-at-Large*, vol. ii., pp. 528-533; MacDonalld, *Select Documents*, pp. 178-183. See also Appendix at the end of the present chapter.

* McMaster, vol. iii., pp. 335-336; Adams, *United States*, vol. iv., chap. xix.

APPENDIX TO CHAPTER X.

IMPORTANT SECTIONS OF THE NON-INTERCOURSE ACT, MARCH 1, 1809.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passing of this act, the entrance of the harbors and waters of the United States and of the territories thereof, be, and the same is hereby, interdicted to all public ships and vessels belonging to Great Britain or France, excepting vessels only which may be forced in by distress, or which are charged with despatches or business from the government to which they belong, and also packets having no cargo nor merchandise on board. And if any public ship or vessel as aforesaid, not being included in the exception above mentioned, shall enter any harbor or waters within the jurisdiction of the United States, or of the territories thereof, it shall be lawful for the President of the United States, or such other person as he shall

have empowered for that purpose, to employ such part of the land and naval forces, or of the militia of the United States, or the territories thereof, as he shall deem necessary, to compel such ship or vessel to depart.

* * * * *

Section 3. *And be it further enacted*, That from and after the twentieth day of May next, the entrance of the harbors and waters of the United States and the territories thereof be, and the same is hereby interdicted to all ships or vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either; vessels hired, chartered, or employed by the government of either country, for the sole purpose of carrying letters or despatches, and also vessels forced in by distress or by the dangers of the sea, only excepted. And if any ship or

vessel sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either, and not excepted as aforesaid, shall after the said twentieth day of May next, arrive either with or without a cargo, within the limits of the United States or of the territories thereof, such ship or vessel, together with the cargo, if any, which may be found on board, shall be forfeited, and may be seized and condemned in any court of the United States or the territories thereof, having competent jurisdiction, and all and every act and acts heretofore passed, which shall be within the purview of this act, shall be, and the same are hereby repealed.

Section 4. *And be it further enacted*, That from and after the twentieth day of May next, it shall not be lawful to import into the United States or the territories thereof, any goods, wares or merchandise whatever, from any port or place situated in Great Britain or Ireland, or in any of the colonies or dependencies of Great Britain, nor from any port or place situated in France, or in any of her colonies or dependencies, nor from any port or place in the actual possession of either Great Britain or France. Nor shall it be lawful to import into the United States, or the territories thereof, from any foreign port or place whatever, any goods, wares or merchandise whatever, being of the growth, produce or manufacture of France, or of any of her colonies or dependencies, or being of the growth, produce or manufacture of Great Britain or Ireland, or of any of the colonies or dependencies of Great Britain, or being of the growth, produce or manufacture of any place or country in the actual possession of either France or Great Britain: *Provided*, that nothing herein contained shall be construed to affect the cargoes of ships or vessels wholly owned by a citizen or citizens of the United States, which had cleared for any port beyond the Cape of Good Hope, prior to the twenty-second day of December, one thousand eight hundred and seven, or which had departed for such port by permission of the President, under the acts supplementary to the act laying an embargo on all ships and vessels in the ports and harbors of the United States.

* * * * *

Section 6. *And be it further enacted*, That if any article or articles, the importation of which is prohibited by this act, shall, after the twentieth of May, be put on board of any ship or vessel, boat, raft or carriage, with intention to import the same into the United States, or the territories thereof, contrary to the true intent and meaning of this act, and with the knowledge of the owner or master of such ship or vessel, boat, raft or

carriage, such ship or vessel, boat, raft or carriage shall be forfeited, and the owner and master thereof shall moreover each forfeit and pay treble the value of such articles.

* * * * *

Section 11. *And be it further enacted*, That the President of the United States be, and he hereby is authorized, in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation; after which the trade of the United States, suspended by this act, and by the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing. * * *

Section 12. *And be it further enacted*, That so much of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as forbids the departure of vessels owned by citizens of the United States, and the exportation of domestic and foreign merchandise to any foreign port or place, be and the same is hereby repealed, after the fifteenth day of March, one thousand eight hundred and nine, except so far as they relate to Great Britain or France, or their colonies or dependencies, or places in the actual possession of either. * * *

Section 13. *And be it further enacted*, That during the continuance of so much of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as is not repealed by this act, no ship or vessel bound to a foreign port, with which commercial intercourse shall, by virtue of this act, be again permitted, shall be allowed to depart for such port, unless the owner or owners, consignee or factor of such ship or vessel shall, with the master, have given bond with one or more sureties to the United States, in a sum double the value of the vessel and cargo, if the vessel is wholly owned by a citizen or citizens of the United States; and in a sum four times the value, if the vessel is owned in part or in whole by any foreigner or foreigners, that the vessel shall not leave the port without a clearance, nor shall, when leaving the port, proceed to any port or place in Great Britain or France, or in the colonies or dependencies of either, or in the actual possession of either, nor be directly or indirectly engaged during the voyage in any trade with such port, nor shall put any article on board of any other vessel; nor unless every other requisite and provision of the

second section of the act, intituled "An act to enforce and make more effectual an act, intituled An act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto," shall have been complied with. And the party or parties to the above mentioned bond shall, within a reasonable time after the date of the same, to be expressed in the said bond, produce to the collector of the district, from which the vessel shall have been cleared, a certificate of the landing of the same, in the same manner as is provided by law for the landing of goods exported with the privilege of drawback: on failure whereof, the bond shall be put in suit; and in every such suit judgment shall be given against the defendant or defendants, unless proof shall be produced of such relanding, or of loss at sea.

Section 14. *And be it further enacted*, That so much of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as compels vessels owned by citizens of the United States, bound to another port of the said States, or vessels licensed for the coasting trade, or boats, either not masted or not decked, to give bond, and to load under the inspection of a revenue officer, or renders them liable to detention, merely on account of the nature of their cargo, (such provisions excepted as relate to collection districts adjacent to the territories, colonies or provinces of a foreign nation, or to vessels belonging or bound to such districts) be, and the same is hereby repealed, from and after the fifteenth day of March, one thousand eight hundred and nine. * * *

Section 15. *And be it further enacted*, That during the continuance of so much of the act laying an embargo on all ships and vessels in

the ports and harbors of the United States, and of the several acts supplementary thereto, as is not repealed by this act, no vessel owned by citizens of the United States, bound to another port of the said States or licensed for the coasting trade, shall be allowed to depart from any port of the United States, or shall receive a clearance, nor shall it be lawful to put on board any such vessel any specie of goods, wares, or merchandise, unless a permit shall have been previously obtained from the proper collector, or from a revenue officer, authorized by the collector to grant such permits; nor unless the owner, consignee, agent, or factor shall, with the master, give bond with one or more sureties, to the United States, in a sum double the value of the vessel and cargo, that the vessel shall not proceed to any foreign port or place, and that the cargo shall be relanded in some port of the United States: *Provided*, that it shall be lawful and sufficient in the case of any such vessel, whose employment has been uniformly confined to rivers, bays and sounds within the jurisdiction of the United States, to give bond in an amount equal to one hundred and fifty dollars, for each ton of said vessel, with condition that such vessel shall not, during the time limited in the condition of the bond, proceed to any foreign port or place, or put any article on board of any other vessel, or be employed in any foreign trade.

* * * * *

Section 19. *And be it further enacted*, That this act shall continue and be in force until the end of the next session of Congress, and no longer; and that the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, shall be, and the same are hereby repealed from and after the end of the next session of Congress.

CHAPTER XI.

1809-1811.

DRIFTING INTO WAR.

The inauguration of Madison — Depression in England — Pinkney's negotiation with Canning — Erskine's negotiations regarding the *Cheasapeake* affair — Madison's proclamation restoring trade — His message to Congress — Establishment of blockade of European ports by England — Disavowal of Erskine's agreement — Madison's view of England's conduct — Appointment of Jackson — His instructions, negotiations, and dismissal — Discussion and rejection of Macon's Bill Number One — Passage of Macon's Bill Number Two — Napoleon's course — Confiscations in France — The Decree of Rambouillet — Napoleon's anger at Macon's Bill — Cadore's letter of August 5 — Pinkney's correspondence with Wellesley — Cessation of trade with England — Discussion in Congress regarding non-intercourse with England — Changes in the Cabinet — Pinkney's correspondence with Wellesley — The battle between the *President* and the *Little Belt* — Foster's efforts to adjust points in dispute — Russell's negotiations in France — Madison's quandary.

On March 4, 1809, James Madison was inaugurated fourth President of the United States.* Immediately after his inauguration the President organized his Cabinet. Albert Gallatin was retained as Secretary of the Treasury, Cæsar A. Rodney as Attorney-General, and Gideon Granger as Postmaster-General. William Eustis, of Massachusetts, became Secretary of War, Paul Hamilton Secretary of the Navy, and Robert Smith Secretary of State.†

When Madison assumed the reins of government, the outlook was not bright either respecting foreign relations or domestic affairs. Napo-

leon's actions did not tend to make the Administration feel more kindly toward him. Even though he sought the alliance of the United States in his struggle with England, he ever refused to act in a manner calculated to bring it about. The French minister at Washington sent home reports of the situation in America which should have weakened Napoleon's attitude; but they seem to have had the opposite effect, and the breach between the two nations grew. The repeal of the Embargo seemed a direct slap at the French emperor; and, as if to remove the last doubt of a rupture with him, the President startled the country by suddenly announcing that the disputes with England had been settled. In April Erskine received new instructions from London, and during the next two weeks the terms were fully debated. When all was settled, three

* For his inaugural address, see Richardson, *Messages and Papers*, vol. i., pp. 466-468; *Annals of Congress*, 10th Congress, special session, pp. 463-465; Benton, *Abridgment*, vol. iv., pp. 33-34.

† Hunt, *Life of Madison*, pp. 302-304; Adams, *Lives of Madison and Monroe*, pp. 108-109; McMaster, vol. iii., p. 339; Adams, *United States*, vol. v., pp. 1-12; Schouler, *United States*, vol. ii., p. 312.

pairs of formal notes were drawn up, a proclamation written, and the whole made public in the *National Intelligencer* on April 21, 1809.*

In December of 1808 a new Order in Council appeared abolishing the export duties lately imposed by Parliament on foreign products passing through England. On December 24 Canning sent Pinkney a copy of this new order with a supposedly conciliatory note. On the 28th Pinkney replied, however, that the American government had protested against the entire system of levying imposts on American commerce and required the repeal, not the modification of the British Orders in Council.† The time being unpropitious for further bickering, Canning outwardly suppressed his irritation.

Pinkney's attitude coincided with the tone of Erskine's letter and Campbell's report to the House of Representatives. About the middle of January Canning had received Erskine's letter of November 25 (containing Campbell's report) and those of December 3 and 4. Consequently he was disposed to be conciliatory. On January 18 he informed Pinkney that the Ministry were willing to consider the resolutions proposed in Campbell's report as removing obstacles to a satisfactory ar-

range ment.* When Pinkney suggested that the subject be deferred, Canning appointed January 22 as the day for the interview. Before the interview took place, however, Pinkney's powers had been withdrawn and he neither could nor would furnish Canning any assurance on which a concession could be offered with the certainty of acceptance or rejection. Pinkney declined to enter into any discussion as to what his government would do, confining himself to a general encouragement of Canning's good intentions.†

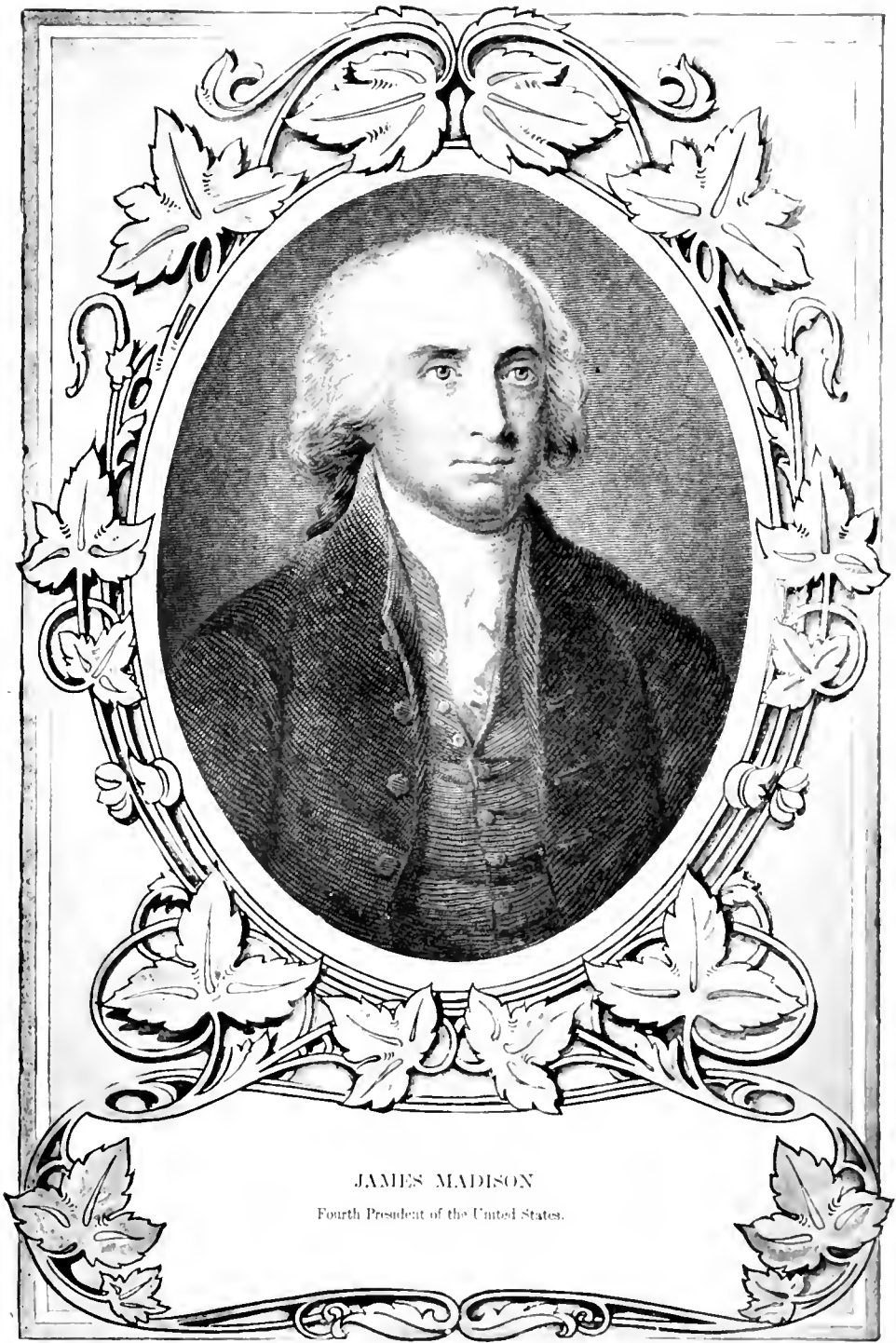
Having experimented unsuccessfully on Pinkney, Canning sent new instructions to Erskine. Erskine was sure that if Great Britain should withdraw her Orders in Council of January and November of 1807, the United States would withdraw her commercial restrictions so far as they related to Great Britain, leaving them in force only against France. He was certain that the United States would relinquish all claims to a colonial trade in times of war which she did not enjoy in times of peace. He was sure also that, in order to carry out the Embargo and stop American citizens from trading with France, Great Britain would be permitted to capture American ships engaged in such

* Wheaton, *Life of Pinkney*, p. 420; Pinkney, *Life of Pinkney*, p. 227.

† Wheaton, *Life of Pinkney*, p. 424. Pinkney's account of this interview is in *American State Papers, Foreign Relations*, vol. iii., pp. 299-300; *Annals of Congress*, 11th Congress, 1st session, pt. ii., pp. 2064-2065.

* For details of the alienation from France, see Adams, *United States*, vol. v., chap. ii.

† *American State Papers, Foreign Relations*, vol. iii., p. 240.



JAMES MADISON

Fourth President of the United States.

trade. Therefore the new instructions of January 23 stated precisely what Erskine was to do.* The first instructions dealt with the *Chesapeake* affair and the proclamation occasioned by it. He was to offer reparation for the loss of life on the *Chesapeake*, if a proclamation should be issued closing the ports to French as well as English ships of war, thereby placing both nations on an equal footing.† Not until then should he disavow the orders of Admiral Berkeley, offer to return the men taken from the *Chesapeake*, or promise compensation to the widows and orphans of those who had been killed in that fight. He was explicitly directed to refuse any demand for further censure on Admiral Berkeley, since the Admiral had been recalled and the recall was sufficient punishment.‡

Looking on the disavowal and the return of the sailors as concessions, Canning demanded that the American government disavow Barron's enlistment of British deserters as well as the outrage perpetrated on English property and Englishmen as a result of the *Chesapeake-Leopard* fight, and promise not to countenance desertions from the English army or navy. Regarding the Orders in Council of January and November of 1807, Erskine was to inform the American

government that they would be recalled on three conditions: all commercial restrictions of every kind to be repealed as to England and enforced against France; the United States to renounce all claims to a colonial trade in time of war not enjoyed in times of peace; and Great Britain to have the right to capture American ships engaged in this trade and thus violating the commercial restrictions against France. On the acceptance of these conditions, Erskine was to promise that a minister with full power to conclude a regular treaty would be sent to the United States.* Again, if the United States wished to enjoy the old trade with England and her colonies without further delay, Erskine was to promise that, whenever the American restrictions against England were taken off, England would recall the Orders in Council so far as the United States was concerned.†

On April 7 these dispatches reached America and at once Erskine entered into correspondence with Secretary Smith‡ with the result that on April 19 Erskine announced that on June 10, 1809, the Orders in Council of January and November of 1807 would

* *American State Papers, Foreign Relations*, vol. iii., pp. 300-301.

† McMaster, vol. iii., pp. 340-341; Adams, *United States*, vol. v., p. 52 *et seq.*; Gay, *Life of Madison*, p. 284 *et seq.*

‡ The letters are in *American State Papers, Foreign Relations*, vol. iii., pp. 295-296; *Annals of Congress*, 11th Congress, 1st session, pt. ii., pp. 2057-2059.

* *Annals*, pp. 2066-2067.

† Schouler, *United States*, vol. ii., p. 313.

‡ Channing, *The Jeffersonian System*, pp. 234-235.

be recalled and Madison issued a proclamation restoring commercial intercourse.* The proclamation stated that after June 10 the people would again be free to trade with Great Britain, her dependencies, and with every foreign port not subject to France. Some doubted whether the President had acted wisely or within the law and believed it would be well for Congress to look into this matter.†

The Eleventh Congress, which met on May 22, differed little in character from its predecessor. The Federal strength was little increased by the late elections, while several prominent Republicans (among them George W. Campbell, of Tennessee, Joseph Story, of Massachusetts, and Wilson Cary Nicholas, of Virginia) had disappeared from the House. Nevertheless, the Republicans found no difficulty in placing Joseph P. Varnum in the Speaker's chair.‡ John W. Eppes became Chairman of the Committee of Ways and Means.¶ On May 23 the President sent in his first annual message, taking occasion at the very outset "to communicate the commencement of a favorable change" in the foreign relations of

the United States, especially with regard to Great Britain.* The President informed Congress also that, under the brightening prospect of affairs, he had laid up the gunboats, discharged the militia, and suggested the propriety of modifying the laws respecting the army and navy establishments. He said that the fortification of the sea-coast was in progress, but that more money was needed to complete it. He congratulated the country that the whole of the 8 per cent. stock remaining due by the United States had been reimbursed, so that on the first of the preceding month there was more than \$9,500,000 in the Treasury.

The Federalist minority suddenly found themselves deprived by Erskine and Madison of every grievance to stand upon. For once no one charged that the President's course had been dictated from France. At no session since 1789 had such harmony prevailed, and Congress passed its bills with a unanimity hitherto unknown. The bill restoring commercial relations with England was passed (72 to 15) without discussion,† save as to the admission of French national ships into American ports. Some-

* *Annals of Congress*, 11th Congress, pt. ii., pp. 2059-2061; McMaster, vol. iii., pp. 341-342. For the proclamation, see Richardson, *Messages and Papers*, vol. i., p. 472; *American State Papers, Foreign Relations*, vol. iii., p. 297.

† McMaster, vol. iii., p. 343; Adams, *United States*, vol. v., pp. 73-74.

‡ Schouler, *United States*, vol. ii., p. 317.

¶ Adams, *Lives of Madison and Monroe*, p. 130.

* Richardson, *Messages and Papers*, vol. i., pp. 468-470; *Annals of Congress*, 11th Congress, 1st session, pt. i., pp. 11-13; Benton, *Abridgment*, vol. iv., pp. 117-118.

† Act of June 28, 1809, *Annals of Congress*, 11th Congress, 1st session, pt. ii., pp. 2508-2510. For the debate, see *Annals*, pt. i., pp. 16-17, 19-23, 74-75, 219-229, 368-380, 394-416, 419-457; Benton, *Abridgment*, vol. iv., pp. 118-121, 127, 152-163.

what to the alarm of the Eastern men, Congress decided to exclude these vessels, and this cast some doubt on Madison's desire to push matters to a head with Napoleon. Nothing was done regarding impressments, the attempt to increase protective duties was defeated,* and not a voice was raised on behalf of France.

On June 10, eighteen days before Congress adjourned, trade was once more resumed with Great Britain and her dependencies. At many places, particularly at seaboard towns there was much rejoicing.† But popular enthusiasm was considerably dampened by the news that on April 26 the British government had issued an important Order in Council revoking the Order of November 11, 1807.‡ This declared that the old Orders were revoked and annulled, except as to a general blockade of the ports and places under the government of France—a blockade which was to extend northward as far as Ems and to include the ports of northern Italy on the south. Of course there was no pretence that the blockade was to be effective, since no squadrons were to enforce its provisions. In that respect the Order of April 26, 1809, was as illegal as that of November 11, 1807.¶ The more the new Order

was studied the less its motive was understood. How could the position of England as set forth in Erskine's notes of April 17 and 18 be reconciled with the Orders of April 26? Why was it that at the very time Erskine was agreeing to open the ports of Holland his government was deliberately imposing a new blockade on them? So great was the distrust aroused in Congress that on June 15 Erskine wrote a note to Secretary Smith assuring him that the recent Order "has no connection whatever with the overtures which I have been authorized to make" and that "the terms of the agreement so happily concluded by the recent negotiation will be strictly fulfilled on the part of His Majesty."**

The British government was not at all pleased with Erskine's conduct and the agreement was promptly disavowed.† In his decision to reject Erskine's agreement Canning may have been influenced by the fact that British merchants were loudly protesting that British trade would be ruined if American vessels—with their cheaper sugar, cotton and coffee—were allowed to enter Amsterdam and Antwerp. The mere expectation of their arrival would create such a

* For the debate, see *Annals*, pt. i., pp. 183-187, 235-237.

† Schouler, *United States*, vol. ii., p. 320.

‡ Channing, *The Jeffersonian System*, p. 236.

¶ Adams, *United States*, vol. v., pp. 63 *et seq.*, 81. See also *American State Papers, Foreign Relations*, vol. iii., p. 241; Wheaton, *Life of Pinkney*, p. 428.

** *American State Papers, Foreign Relations*, vol. iii., p. 297. Madison, however, doubted that this letter had entirely "destroyed the effect of the ill-grace stamped on the British retreat." See his letter of June 20 to Jefferson, in *Madison's Works* (Congress ed.), vol. ii., p. 443.

† Canning to Pinkney, May 27, 1809, *American State Papers, Foreign Relations*, vol. iii., p. 301.

fall in prices as to make worthless the accumulated merchandise in British warehouses. Deputations of merchants called on Lord Bathurst to represent the danger of allowing even those American ships to enter the ports of Holland which, trusting to Erskine's agreement, had sailed from the United States. Unexpectedly, however, the minister refused to gratify this prayer, and when the note announcing the repudiation of Erskine's agreement was sent to Pinkney, a copy of an Order in Council of May 24 was also sent to the effect that any merchant ship which on the faith of this important understanding had cleared between April 19 and July 20 for ports blockaded by the Orders of January and November of 1807 should not be molested in their voyage.* At the same time a note recalling Erskine was sent to America, while Pinkney was informed that all negotiations respecting the affair would be made at Washington through a minister soon to be sent out in Erskine's place.

The English newspapers which announced the disavowal of Erskine had been received in the United States as early as July 21, and as the news spread along the seaboard the scenes of the early days of the Embargo were again to be witnessed. No one

in the United States could understand why England had taken such a course. Few of the British sympathizers in the country could believe that her conduct was actuated by the motives she avowed. They sought for some nobler or at least some more respectable motive. The merchants, however, were taking no chances that the old Embargo might be reimposed. Ships were loaded with the utmost speed and hurried to sea, lest orders should come to the collectors to stop them. When the news arrived, President Madison was at his home in Virginia, having left Gallatin in charge of affairs at Washington. On receiving a note from Gallatin requesting his return to Washington, Madison hopefully replied as follows:

"The conduct of the British government in protesting the arrangement of its minister surprises one, in spite of all their examples of folly. If it be not their plan, now that they have filled their magazines with our supplies and ascertained our want of firmness in withholding them, to adopt openly a system of monopoly and piracy, it may be hoped that they will not persist in the scandalous course in which they have set out. Supposing Erskine to have misunderstood or overstrained his instructions, can the difference between trading directly or indirectly with Holland account for the violent remedy applied to the case? Is it not more probable that they have yielded to the clamors of the London smugglers in tea and coffee, whose numbers and impudence are displayed in the scandalous and successful demand upon their government that it should strangle the lawful trade of a friendly nation lest it should interfere with their avowed purpose of carrying on a smuggling trade with their enemies? Such an outrage on all decency was never before heard of even on the shores of Africa."*

*Schouler, *United States*, vol. ii., pp. 320-321. For text, see *American State Papers, Foreign Relations*, vol. iii., p. 302; *Annals of Congress*, 11th Congress, pt. ii., pp. 2070-2071.

*Adams, ed. of *Gallatin's Writings*, vol. i., pp. 454-455.

But Madison's hopes vanished when Erskine's instructions became known. Consequently, on August 9, Madison issued a second proclamation recalling the first and reviving and declaring in full effect the Non-intercourse Act.* With copies of the proclamation went circular letters from Gallatin to the collectors of the ports reminding them that the Non-intercourse Act of March 1 was again in force, but instructing them to suspend it as to three classes of ships.†

On May 25 when the disavowal of Erskine's agreement appeared in the British newspapers, Canning had an interview with Pinkney at which he read Erskine's instructions, explained wherein Erskine had violated them, and announced that Erskine's successor had been appointed and would sail for America within a few days. Canning could hardly have made a worse choice. In case Erskine had obeyed his instructions which ordered him to pave the way for a negotiation, Canning had decided to send George Henry Rose as negotiator.‡ Poor as this appointment would have been, there was one man in England whose appointment could have been even worse, and that man Canning chose. The new minister was Francis James Jackson, who had made an unsavory reputation for himself at Copen-

hagen.* He arrived in the United States early in September, but was not officially received until October 3, Madison being away from Washington.

Jackson's instructions were five in number: He was to give no reasons for the disavowal of the Erskine agreement until the President gave written assurance that he had recalled the proclamation of 1807; to propose no reparation for the *Chesapeake* outrage; to offer nothing regarding the recall of the Orders in Council (although he was allowed to receive any proposals from the United States which comprehended the three conditions imposed on Erskine) and to insist on the enforcement of the rule of 1756.† Almost immediately upon the President's return to Washington, Jackson's interviews with Secretary Smith began. On October 9 the Secretary of State sent to the British legation a formal letter, signed by himself but written by Madison, to the effect that the President expected an explanation of England's conduct in disavowing the Erskine agreement, asking if his understanding of Jackson's instructions as given above was correct and that, in order to avoid the misconceptions incident to oral proceedings, all discussions be conducted in writing.‡ Jackson then flew into

* Richardson, *Messages and Papers*, vol. i., p. 473.

† *American State Papers, Foreign Relations*, vol. iii., p. 304.

‡ Wheaton, *Life of Pinkney*, p. 434.

* Hunt, *Life of Madison*, p. 307; Adams, *Lives of Madison and Monroe*, pp. 131-132; Adams, *United States*, vol. v., p. 95 *et seq.*

† Adams, *United States*, vol. v., pp. 99-105.

‡ *American State Papers, Foreign Relations*, vol. iii., p. 308; *Annals of Congress*, 11th Congress, 1st session, pt. ii., pp. 2085-2087.

a rage, protested that he was unjustly treated, said that there was no precedent for conducting negotiations in writing, and declared that there was no necessity for an explanation from England. Reasons had been given, he said, to Pinkney at London and had been sent to Erskine at Washington. There was no foundation, he continued, for the belief that Erskine had two sets of instructions and made the agreement in accordance with one of them.* On October 9 Madison sent to Jackson one of the keenest state papers he ever wrote. At the very outset he dealt Jackson a fatal blow by reminding him that in July of 1808 Canning himself had established the precedent for written negotiations when, after an interview with Pinkney, he stopped oral communication.† He said that Canning's explanation to Pinkney was oral and informal, but that it should have been made in writing by Erskine's successor and at Washington instead of at London. He said that when a government refused to live up to an agreement made by an accredited representative, good and sufficient reasons should be frankly given by that government; that Jackson, being Erskine's successor, was the proper person to render this explanation; and that if he

had no authority to do so, he (Madison) would settle the whole affair in an honorable manner. Madison said, however, that the statement that Erskine had only one set of instructions was news to him and that if he had known such to be the case, the agreement would not have been made.* In other words, he had assumed that Erskine, like most ministers, had been given instructions as to what was desirable to secure by his negotiations as well as to the limits he might go.†

This letter drove Jackson close to the wall. He was compelled to pause between the two alternatives—of avowing that he had no proposal to make or asserting that he had both explanations and proposals. He decided to offer explanations and to invite proposals eventually to be embodied in a convention. On October 23 he wrote a note answering the note of October 19, in which, in diplomatic language, he meant and was understood to say that the Secretary lied and that the government knew Erskine was exceeding the bounds of his authority in making such an agreement.‡ On November 1 a reply to Jackson's last letter was sent by Madison through the Secretary of State which left no doubt that the President meant to push his antagonist to extremes. After accepting

* Jackson to Smith, October 11, 1809, *American State Papers, Foreign Relations*, vol. iii., pp. 308-311. See also *Annals*, pp. 2087-2093; McMaster, vol. iii., pp. 351-352; Adams, *United States*, vol. v., pp. 124-126; Hunt, *Life of Madison*, p. 309; Adams, *Lives of Madison and Monroe*, p. 136.

† See Wheaton, *Life of Pinkney*, p. 407.

* *American State Papers, Foreign Relations*, vol. iii., pp. 311-314; *Annals*, pp. 2093-2102.

† Adams, *United States*, vol. v., pp. 127-128.

‡ *American State Papers, Foreign Relations*, vol. iii., pp. 315-316; *Annals*, pp. 2103-2107.

the explanations made in regard to the Orders in Council and pointing out that they did not apply to the *Chesapeake* affair, Madison requested Jackson to show his full powers as an "indispensable preliminary to further negotiation." He ended the letter with a stern warning against the repetition "of a language implying a knowledge, on the part of this government, that the instructions of your predecessor did not authorize the arrangement formed by him. * * * Such insinuations are inadmissible in the intercourse of a foreign minister with a government that understands what it owes to itself."* This letter placed Jackson in a position which he could not well defend, but from which he thought he could not retreat without disgrace. He replied on November 4, again flinging back the charge of falsehood.† In reply, Secretary Smith on November 8 sent to the legation one more note, which closed Jackson's diplomatic career, he being informed that intercourse would not be held with him.‡

On November 27 the second session of the Eleventh Congress assembled. On the 29th the President sent in his message, in which he particularly mentioned the failure of the negotiations with Erskine and the course

pursued by his successor.* In the Senate that part of the message which related to the trouble with Jackson was sent to a select committee which on December 5 reported through Giles a set of resolutions and a bill.† The resolutions set forth that Jackson's conduct in the first instance when he stated that the United States had entered into an agreement with Erskine knowing that he had no power to make it, was highly indecorous and insolent; that the repetition of this insinuation was "still more insolent and affronting;" that Secretary Smith had acted well in refusing to treat with him further; that the circular addressed to the consuls was a "still more direct and aggravated insult and affront to the American people and their government;" and that Congress was ready to call out the whole force of the nation to repel such insults and to maintain the rights, honor and interests of the nation. The bill authorized the President to send offending ministers out of the country.‡ The Senate approved these resolutions in strong terms (only the Massachusetts and Connecticut Senators voting in the

* *American State Papers, Foreign Relations*, vol. iii., p. 317; *Annals*, pp. 2108-2109.

† *American State Papers, Foreign Relations*, vol. iii., pp. 317-318; *Annals*, pp. 2109-2113.

‡ *American State Papers, Foreign Relations*, vol. iii., pp. 318-319; *Annals*, p. 2113. See also Channing, *The Jeffersonian System*, pp. 239-242.

* Richardson, *Messages and Papers*, vol. i., pp. 473-477; *Annals of Congress*, 11th Congress, pt. i., pp. 475-478; Benton, *Abridgment*, vol. iv., pp. 167-168.

† *Annals of Congress*, 11th Congress, 1st session, pt. i., pp. 481-482; Benton, *Abridgment*, vol. iv., pp. 168-169.

‡ McMaster, vol. iii., pp. 355-356. The resolution as approved is in *Annals of Congress*, 11th Congress, 1st session, pt. ii., p. 2590.

negative) and sent them to the House.*

While the Senate had been considering their resolutions, various resolutions had been introduced in the House commending Madison's actions, bidding defiance to England, suggesting retaliatory measures, etc.† But when the Senate's resolutions came down on December 19, the House resolutions were discarded and debate on the Senate measures commenced, which, save for a day's recess at Christmas, continued uninterruptedly until January 4, when the resolutions were passed by a vote of 72 to 41.‡ The vote was strictly partisan, every Republican voting in the affirmative and every Federalist in the negative.||

Probably nothing would have pleased Congress more than inaction. But this wish could not be gratified. The Non-intercourse Act of March 1, 1809, would soon expire. As early as December 1 the House had referred this matter to a committee, of which Nathaniel Macon was the head.§ After consulting with Gallatin, Macon drew up a plan which, being accepted without opposition by the

Cabinet, was reported to the House on December 19 in the form of a bill, sometimes known as "The American Navigation Act" and sometimes as "Macon's Bill Number One." Some of its provisions were to take effect immediately and others on April 15, 1810. Among them was the provision excluding all British or French war and merchant vessels from ports of the United States; that restraining all importations of merchandise from England or France or their colonies, directly or indirectly, to vessels wholly owned by citizens of the United States; one prohibiting the importation of goods from either country after April 15, unless brought directly from France or England; and another providing that, should either of these nations cease to violate the neutral trade of the United States, these prohibitions should be discontinued and trade with that nation renewed.*

The House was practically unanimous regarding most of the provisions of this bill, but a long tiresome argument sprang up regarding the fifth section, which provided that after April 15 all trade with France and Great Britain should be carried on in ships built and owned in the United States. The Federalists considered the bill a shameful submission to the French and British decrees, held that it merely continued the old

* *Annals of Congress*, 11th Congress, 1st session, pt. i., pp. 484-509, 511; Benton, *Abridgment*, vol. iv., pp. 169-176; Schouler, *United States*, vol. ii., p. 325.

† See *Annals*, pt. i., pp. 691-693, 717-727; McMaster, vol. iii., pp. 56-57.

‡ *Annals*, pp. 1151-1152; Benton, *Abridgment*, vol. iv., p. 211; Schouler, *United States*, vol. ii., p. 325.

|| McMaster, vol. iii., p. 357; Adams, *United States*, vol. v., p. 182.

§ *Annals*, pt. i., pp. 686-687.

* *Annals*, pt. i., pp. 754-755; McMaster, vol. iii., pp. 357-358; Schouler, *United States*, vol. ii., p. 326.

restrictive system, that Great Britain would retaliate, and that it could never be carried into effect. They claimed, moreover, that the bill was nothing but a relash of old bills. It had been tried, they said, in the shape of non-intercourse, embargo, and non-importation, but it was, if possible, more detestable than any of those.*

On the other hand, the Republicans asserted that the bill had no semblance to either the Embargo or the Non-intercourse acts and that it would be an easy matter to enforce it. While the Embargo had restrained and restricted our own citizens, the new act operated against foreigners. Under the Embargo an American citizen could not send cotton, flaxseed, rice, flour, etc., to any foreign port, but the new act allowed him to send his goods wherever he pleased and gave to American ship-owners all the carrying trade between the United States, France and Great Britain. Finally, on January 29, 1810, the House passed the bill by a vote of 73 to 52, and it was then sent to the Senate.† There, as was expected, the factions broke loose. On February 22, at the motion of Senator Samuel Smith and by a vote of 26 to 7, the Senate struck out every section of the bill save the first, which excluded the warships of the belligerents from American ports, the second, which provided the pen-

alties for refusing to obey, and the twelfth, which limited the act to the end of the next session.‡ The House resented this mutilation, wrathfully restored the omitted sections, and on March 5 by a vote of 67 to 47 sent the bill back to the Senate.† A long wrangle ensued resulting in the Senate's refusal to concur. A conference was then demanded, to which the House agreed, after voting to insist on their bill. This conference, however, might as well never have been held, for the Senate conferrees made a proposition which those from the House would not accept while the House conferrees made a counter-proposition which those from the Senate would not accept. They parted and, as neither side would give way, Macon's Bill Number One was lost.§

The House now decided to make one more effort, and on April 7 Macon reported a new bill, nicknamed Macon's Bill Number Two." As it came from the committee the new bill contained three sections. One repealed the third section of the amended Non-intercourse Act of June 28, which forbade American merchant ships going to England or France; the second declared that all penalties incurred under the Embargo and Non-intercourse

* *Annals*, pt. i., pp. 1160-1195, 1201-1202, 1219-1251, 1257-1279. pt. ii., pp. 1281-1330; McMaster, vol. iii., pp. 358-359.

† *Annals*, pt. ii., pp. 1333-1355; Schouler, *United States*, vol. ii., p. 327.

‡ *Annals*, pt. i., pp. 577, 579-582; Benton, *Abridgment*, vol. iv., pp. 177-179; Adams, *United States*, vol. v., pp. 185-191.

† For the debate, see *Annals*, pt. ii., pp. 1438-1442, 1446-1463, 1484-1485.

§ *Annals*, pp. 590, 592, 601-611, 1493-1496, 1559-1560, 1585-1586, 1635-1659, 1665-1678, 1682-1692, 1701; McMaster, vol. iii., p. 360; Adams, *United States*, vol. v., pp. 191-193.

acts should be collected; while the third provided that if by March 3, 1811, either Great Britain or France should revoke or modify her edicts so as to cease violating the neutral commerce of the United States, the President should proclaim the fact; and that, if the other power did not repeal her decrees within three months, the old Non-intercourse Act should be enforced against it.* In the course of the debate on the bill, two other sections were added — one closing American ports to the armed ships of Great Britain and France and the other laying a duty of 50 per cent. *ad valorem* on goods, wares and merchandise of foreign growth or make. On April 19 the bill passed the House by a vote of 61 to 40 and was sent to the Senate.† That body referred it to a select committee, headed by Samuel Smith who reported the measure with its only effective provision (the additional duty) struck out‡ and with the addition of a convoy clause.§ The bill in its amended form passed the Senate on April 28 without a division and was sent back to the House.¶ Most of the changes were merely verbal and were accepted without a murmur, for no one cared greatly for Macon's bill in any form.

But the House refused to accept the Senate amendments regarding the duty and the convoy, finding itself on May 1 within a few hours of adjournment and the expiration of the Non-intercourse Act without having provided for the commercial relations to follow.* On the Senate's refusal to restore the duty, a conference committee was appointed. The Senate yielded on the point of the convoy and the House yielded as to the extra duty, and thus the bill passed at the evening session by a vote of 64 to 27,† Madison immediately signing it.‡

Meanwhile several events had occurred in Europe which greatly affected American affairs. On being checked in Spain, Napoleon decided upon the conquest of Austria. On April 9, 1809, the Austrian army crossed the Inn and began the war. On April 13 Napoleon left Paris for the Danube and during the next three months his hands were full, for Austria was a valiant foe. Such a time was hardly favorable for negotiations on American affairs, yet, a few days after Napoleon had left Paris, Armstrong received a copy of the Non-intercourse Act of March 1, 1809, with instructions to communicate this act to the French government. On

* *Annals*, pt. ii., p. 1763.

† *Ibid.*, pp. 1772-1787, 1887-1928, 1930-1931.

‡ Stanwood (*Tariff Controversies*, vol. i., p. 120) says this was not done because the Senate was opposed to protection, but because it was hostile to Gallatin.

§ *Annals*, pt. i., pp. 266-267.

¶ *Ibid.*, pp. 673-675.

* *Annals*, pp. 2021-2028.

† *Ibid.*, pp. 2051-2052.

‡ *United States Statutes-at-Large*, vol. ii., p. 605; Acts of the Eleventh Congress, 1st session, chap. xxxix. See also McMaster, vol. iii., pp. 361-362; Adams, *United States*, vol. v., pp. 197-198.

April 29, therefore, he wrote to Champagny :

"The undersigned is instructed to add that any interpretation of the Imperial Decrees of November 21, 1806 and December 17, 1807, which shall have the effect of leaving unimpaired the maritime rights of the Union, will be instantaneously followed by a revocation of the present act [as regards France] and a reëstablishment of the ordinary commercial intercourse between the two countries."*

By that time Napoleon had fought several battles, had entered Vienna on May 10, and had taken his quarters at Schönbrunn. There on May 18 he received news that the United States on March 1 had repealed the Embargo, that non-intercourse had been established, and that the British government on April 26 had withdrawn the Orders in Council of November of 1807 and had substituted a blockade of Holland, France and Italy. For the moment he determined to make no concessions, but on May 26 Champagny sent him a report on American affairs which completely changed his mind. The news that Erskine had settled the commercial disputes between England and America added greater weight; and, under the influence of both, he sent to Champagny on June 10 the draft of a new decree revoking that of Milan and leaving neutral commerce to be regulated under the Berlin Decree of November 21, 1806.† He then sent this new de-

creed to Paris for a report from the treasurer as to its probable effects; but while he waited to hear from the customs officers news arrived of Canning's refusal to carry out Erskine's agreement, and all thought of concession was instantly abandoned. Immediately after the battle of Wagram Napoleon sent orders to Paris countermanding previous instructions to begin negotiations with Armstrong.

No surprise was felt by Armstrong, therefore, when a month later Champagny answered his letters of April 29 by flatly refusing to revoke the decrees. He said that Napoleon's principles had not changed; that he still believed a neutral flag made neutral goods, that to blockade by proclamation was a pretension both monstrous and absurd, that a merchant ship was a floating colony, and that to search such a ship and impress a sailor from her deck was a violation of the sovereignty of the country to which she belonged. It was true, France had not respected these principles, because she had been driven from them by the tyranny of England. England had placed France in a state of blockade, and the Emperor had retaliated against England in the same manner by the Berlin Decree. By her Orders in Council of November of 1807 England had laid a toll on neutral vessels and forced them to pass through her ports before entering those of the French. By the decrees of December of 1807 Napoleon had retaliated by denationalizing all ships which paid

* *American State Papers, Foreign Relations*, vol. iii., p. 324.

† McMaster, vol. iii., pp. 362-363; Adams, *United States*, vol. v., pp. 138-139; Channing, *The Jeffersonian System*, p. 242.

this tribute. These were measures of retaliation only, contended Champagny, and when England should revoke her blockade of France, Napoleon would revoke his blockade of England. When the Orders in Council of November were recalled by England, the Milan Decree would be revoked automatically.*

Secretary of State Smith thought he saw a way to secure the revocation of all commercial restrictions. On December 1, 1809, he instructed Armstrong to ascertain from Champagny (subsequently known as the Duke de Cadore) the terms on which France would revoke her decrees and, if they be reasonable, to send them to Pinkney at London.† Armstrong did so,‡ and Pinkney undertook to sound the king.§ But the latter was disgruntled by the Jackson affair and disinclined to show any favors to the United States. All Pinkney could secure was an evasive answer that the Order of May of 1806 had been "comprehended" in that of January of 1807 and that the latter was still in force.§ Pinkney sent this information to Armstrong¶ and waited from May of 1810

until the middle of August for a reply, but none came. While waiting he read in the papers that Napoleon had recalled the Berlin and Milan decrees to take effect November 1.*

Scarcely had Champagny informed Armstrong of the revocation of these decrees when Napoleon gave a fine illustration of the way he treated neutrals. The lifting of the Embargo had sent a large number of merchantmen from America to European points — on the Baltic Sea, in Holland, and in Spain. On May 20, 1809, an American schooner with colonial produce entered the port of San Sebastian (Spain). She had violated no law of the United States, for the Embargo had been repealed and trade with Spain was now permitted; she had entered no English port, had paid no duty to the English custom house officials, had been visited by no English cruiser during her voyage, and had done nothing forbidden by the Berlin and Milan decrees. As Spanish ports were likely to be crowded with American vessels which had violated no law of either nation, the question was, What was the status of such a vessel? Napoleon sent to Champagny the draft of a new decree completely deciding the question. He directed that the American schooner at San Sebastian be seized and confiscated, its cargo conveyed to Bayonne and sold, and the money derived from the sale to be paid into the sinking fund (Caisse de L'Ammortissement), and

* Champagny to Armstrong, August 22, 1809, *American State Papers, Foreign Relations*, vol. iii., pp. 325-326; *Annals of Congress*, 11th Congress, 1st session, pt. ii., pp. 2127-2129.

† *American State Papers, Foreign Relations*, vol. iii., p. 326; *Annals of Congress*, 11th Congress, 1st session, pt. ii., pp. 2129-2130.

‡ *American State Papers, Foreign Relations*, vol. iii., p. 350.

§ *Ibid.*, pp. 352-355.

§ *Ibid.*, pp. 350, 356.

¶ *Ibid.*, p. 357.

* McMaster, vol. iii., pp. 364-365.

that thenceforth every American ship entering the ports of France, Spain, or Italy should be treated likewise as long as the same measure continued to be executed in regard to French vessels in American harbors. Never was this decree published, or enacted into law, yet Napoleon used it as a precedent for his future action, and in a few months American vessels were being seized in Spain and in the port of Naples.

To make matters worse, Napoleon, on March 23, 1810, signed a decree known as the Decree of Rambouillet and modeled after the Non-intercourse Act of 1809. It prohibited American vessels entering French ports after May 20, 1809, and ordered every American vessel which since May 20, 1809, had entered a port of France or of any colony of France, or of any country occupied by her armies then or thereafter to be sold and the proceeds placed in the "Caisse de L'Amortissement."^{*} Though this Decree was signed on March 23, it was not made known until May 14, 1810, and by that time nearly 150 American-owned vessels and their cargoes, valued at about \$10,000,000, had been captured by French ships and condemned.† This high-handed robbery was at its height when toward the end of June of 1810 Napoleon received

word that Congress had passed the Macon Act of May 1, 1810. This struck a blow at Napoleon such as no power in Europe had dared to administer, since it threw open to British trade a market in the United States which would alone compensate England for the loss of her trade in France and Holland.

Though undoubtedly Napoleon was thoroughly incensed at this, he perceived that he must change his tactics. He would accept the offer of the United States, would promise to revoke his decrees (without ever intending to do so), and in the meantime would admit just enough American goods to relieve the distress in France. He did not intend to cripple the British in the least, but merely to regain his lost control over American commercial affairs and to embroil the United States still further in her dispute with Great Britain. He proposed to issue licenses, under the name of permits, for a score of American vessels bearing Georgian cotton. Such ships were to go from only a single designated port of America with certificates of origin, delivered by a single French consul (also to be designated) to enter but one or two designated French ports, and take back wines, silks, cognac, and other French goods to the value of the cargo. Accordingly, on July 15, Napoleon issued a decree restoring a limited American trade with France.* This authorized

^{*} *American State Papers, Foreign Relations*, vol. iii., p. 384.

† McMaster, vol. iii., p. 367; Adams, *United States*, vol. v., pp. 242-243; Gallatin's *Writings*, vol. ii., p. 198; Schouler, *United States*, vol. ii., p. 335.

^{*} *American State Papers, Foreign Relations*, vol. iii., p. 400.

licenses for 30 vessels to carry cotton, oil, dye-wood, salt fish, codfish, and peltry to France, but no other goods. These ships must come only from Charleston and New York, and exchange their cargoes for French silks and linen cloths made on French looms, French wines, French brandy, jewelry, and household furniture made in French factories; each captain was to prove that he came from Charleston or New York by bringing with him a newspaper published in either city on the day of clearing and a certificate from the French consul written in cipher.

On August 5 Cadore sent a letter to Armstrong which played a great part in subsequent events. Cadore assured Armstrong that the Macon Act of May 1 had been communicated to Napoleon and that Napoleon's attitude was this:

"The Emperor had applauded the general embargo laid by the United States on all their vessels, because that measure, if it had been prejudicial to France, had in it at least nothing offensive to her honor. It has caused her to lose her colonies of Martinique, Guadalupe, and Cayenne; the Emperor has not complained of it. He has made this sacrifice to the principle which has determined the Americans to lay the embargo * * *. The act of the 1st of March [1809] has raised the embargo and substituted for it a measure the most injurious to the interests of France. This act, of which the Emperor knew nothing until very lately, interdicted to American vessels the commerce of France, at the time it authorized that to Spain, Naples, and Holland, that is to say, to the countries under French influence, and denounced confiscation against all French vessels which should enter the ports of America. Reprisal was a right, and commanded by the dignity of France, a circumstance on which it was impossible to make a compromise. The sequestration of all the Ameri-

can vessels in France has been the necessary consequence of the measures taken by Congress.

* * * * *

"In this new state of things I am authorized to declare to you, sir, that the Decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being understood that in consequence of this declaration, the English are to revoke their Orders in Council, and renounce the new principles of blockade which they have wished to establish; or that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English."*

The Decree of August 5 was never made public. Armstrong employed his last hours in Paris in trying to ascertain whether the French government meant to negotiate further about the seizure of American vessels, but Cadore replied that the law of reprisals was final.† Armstrong did nothing further about the matter and on September 12, 1810, left Paris for home.

It was Cadore's letter of August 5 that Pinkney had read in the *London Times*. Although he had little success in obtaining replies to his former communications, Pinkney hastened to lay Cadore's letter before Wellesley and begged to be allowed to assure the American government that the Orders in Council of 1807 and of April of 1809 were revoked.‡ In his reply on

* *American State Papers, Foreign Relations*, vol. iii., pp. 386-387; *Annals of Congress*, 11th Congress, 3d session, pp. 1235-1236; *Adams, United States*, vol. v., pp. 254-256.

† *American State Papers, Foreign Relations*, vol. iii., p. 388. See also Schonler, *United States*, vol. ii., pp. 337-338.

‡ Pinkney to Wellesley, August 25, 1810, *American State Papers, Foreign Relations*, vol. iii., p. 365; *Annals of Congress*, 11th Congress, 3d session, pp. 1186-1187.

August 31, Wellesley reminded Pinkney that a promise had been given on February 23, 1808, that Great Britain would abandon her Orders when France abandoned her decrees, and that when the Berlin and Milan decrees had been actually revoked and when the commerce of neutrals was really free his Majesty would gladly make good the promise.* As another form of Wellesley's continued silence this considerably irritated Pinkney. He waited until September 21, and then sent a sharp remonstrance to Wellesley.† But this letter, like most of his other letters, remained unanswered, and before November 1, when Napoleon's limit for England's action expired, a new turn of affairs made answer impossible. Wellesley had quarrelled with his colleagues, public business was at a standstill, on October 25 the old King went insane, and on November 1 the whole government was in utter confusion. Consequently, as November 1 had passed without action on the part of England, Madison, confiding in Napoleon's assurances on the subject of decrees, issued a proclamation on November 2 declaring that intercourse with France was thenceforth renewed,‡ and simultaneously Gallatin issued a circular to the collectors of customs announcing

that all commercial intercourse with Great Britain would cease on February 2, 1811.*

As this date approached and it became apparent that the British Orders would not be revoked, the House Committee on Foreign Affairs resolved to support the President. On January 15, 1811, John W. Eppes, of Virginia, the chairman, reported a bill for regulating commercial intercourse with Great Britain and supplementing the law of 1810.† This bill revived nine sections of the bill of 1809 and provided that on and after February 2 all English vessels and goods, wares and merchandise, whether from England or other ports, were to be excluded from ports of the United States; and that unless England recalled her Orders, total non-importation would be established.‡ The proposed bill lay on the Speaker's table. February approached and still Congress did nothing. The House delayed in the hope that the next ships might bring the news that the Orders had been revoked. Having heard the bill read twice, the House went into Committee of the Whole and for nearly three weeks no action was taken. But no such news came. Neither did word arrive that on November 1, 1810, Napoleon had (as he should have) issued a decree revoking

* *American State Papers, Foreign Relations*, vol. iii., p. 366; *Annals of Congress*, 11th Congress, 3d session, p. 1187.

† *American State Papers, Foreign Relations*, vol. iii., p. 368; *Annals*, pp. 1191-1193.

‡ Richardson, *Messages and Papers*, vol. i., pp. 481-482. See also Schouler, *United States*, vol. ii., pp. 341-342.

* *American State Papers, Foreign Relations*, vol. iii., p. 392; McMaster, vol. iii., pp. 368-369; Adams, *United States*, vol. v., pp. 286-304.

† *Annals of Congress*, 11th Congress, 3d session, pp. 547-551.

‡ McMaster, vol. iii., p. 391.

the Decrees of Milan and Berlin. On the contrary, word came that Napoleon was still enforcing those Decrees; and on January 31, 1811, Madison submitted to Congress letters from Bordeaux showing that, for entering without license, two American ships had been seized at that port and sequestered.*

This intelligence was shocking, and none who heard the message should have doubted the utter faithlessness of France. On February 2, therefore, when non-intercourse was revived by proclamation, Eppes moved that his bill be recommitted, as no excuse could be found for non-intercourse with England. "It has been considered by the Committee of Foreign Relations," said he, "that in the present aspect of our affairs it would be better to provide for the relief of our citizens and suspend the passage of the law for enforcing the non-intercourse until the doubts hanging over our foreign relations were dissipated."† The opposition would have done well to let Eppes struggle with his difficulties as best he could without interference; but, as luck would have it, John Randolph was in the House and, being always ready to embarrass Madison, moved that the committee be instructed to report a bill repealing the act of May 1, 1810.‡ A long de-

bate followed.* Those who opposed the motion said that Congress was asked to repeal a law which provided, in the first place, that the armed ships of foreign nations be excluded from our ports and, in the second, made an offer to both France and England embracing a promise. We had promised England that, if her Orders in Council were recalled, every article of French manufacture would be excluded from our markets. We had promised France that, if her decrees were recalled, every article of British manufacture would be excluded from our ports. And we had threatened both countries that, if their restrictions were not revoked, we would enforce nine sections of the Non-intercourse Act of March of 1809, against the country neglecting to do so. England had ignored the offer, while France had accepted it, informing the American government that after November 1 the Milan and Berlin decrees would cease to be operative. This fact was made known to the world by the President, and England was given three months of grace, which expired at midnight of the day in question. It was now the duty of the government to fulfill the promise made to France, since the law of May 1, 1810, had become a national compact between France and the United States. Those who favored the repeal denied that a compact existed. They said that we had promised to do certain things under certain conditions, the promise

* *American State Papers, Foreign Relations*, vol. iii., p. 390.

† *Annals of Congress*, 11th Congress, 3d session, p. 863.

‡ *Ibid.*, pp. 863-865; Schouler, *United States*, vol. ii., p. 344.

* For which, see *Annals*, pp. 865-896.

not to be binding unless France repealed her Decrees on November 1. This she had not done, since word was received that about December 1 two American ships had been seized by the customs officials at Bordeaux. Therefore, if the Decrees of Berlin and Milan had not been repealed, the condition on which our promise was made did not exist and hence there was no compact between the two countries. The majority was weak in debate, and on the floor of the House no Republican could stand before John Randolph without better protection than this theory of a compact with France.* Nevertheless, when the Speaker put the question on Randolph's motion, it was lost by a vote of 67 to 45, the original bill being re-committed by a vote of 82 to 9.†

Thereupon Eppes reported a new bill providing that American-owned goods which left British ports in American-owned ships prior to February 2, 1811, should not be seized under the sections of the Non-importation Act revived by the President's proclamation.‡ But as a new minister (Jean Matthien Philibert Serurier) was expected from France, the House, after going into Committee of the Whole, twice (February 6 and 9) refused to allow the committee to sit again.¶ The French minister arrived

a few days later, but not one particle of evidence did he furnish that the Decrees were repealed. Nevertheless Madison was inclined to believe that these Decrees were repealed, and on February 19 sent to the House two French documents (dated December 25, 1810) which, he intimated, amounted to a revocation of the Decrees.* These documents were official letters from the ministers of finance and justice, the first giving instructions that the Berlin and Milan Decrees should no longer be enforced against American ships and the second declaring that American vessels should no longer be adjudged under those Decrees, but should be sequestered until February 2, 1811, then to be set free, if the United States fulfilled her part of the contract.

It was on these letters that the President based his belief that the Berlin and Milan Decrees were revoked so as no longer to violate the neutral commerce of the United States. To present such documents as conclusive evidence that the Decrees had been repealed was a bold step; for they proved nothing more than the partial suspension of the Decrees. The same packet that brought the two letters of the French ministers brought also the *Moniteur* of December 15, containing Cadore's official report on foreign relations, in which he urged Napoleon to persist in the enforcement of his Decrees

* For Randolph's speech, see *Annals*, p. 892.

† Adams, *United States*, vol. v., pp. 341-345; McMaster, vol. iii., pp. 392-393.

‡ *Annals*, p. 897.

¶ *Annals*, pp. 909-932, 938-957; Benton, *Abridgment*, vol. iv., pp. 360-367.

* *American State Papers, Foreign Relations*, vol. iii., p. 403.

until England revoked hers.* Thus it would seem that France not only failed to revoke her decrees, but intended to enforce their provisions. As there was nothing to warrant the assertion that France had ceased to violate the neutral rights of America, Madison was obliged to assume that Napoleon meant to do better. He knew that his party would support him, and his party completely revolutionized its methods of business in order to do so.

On February 21 Eppes moved in the House that his bill be amended by adding two more sections reviving the Non-intercourse Act of 1809 against England in respect to all vessels leaving British ports after February 2, 1811, and forbidding the courts to question the revocation of the French Decrees.† Though it was late in the session, the Republican party determined to rush the bill through both Houses. On February 23 Robert Wright, of Maryland, moved that the bill be amended to require England to make an arrangement respecting impressments, as an additional condition of restoring intercourse.‡ Had the House meant war, this motion would probably have been adopted; but it had no such intention and only 16 votes were cast in favor of Wright's motion.¶ After a day's de-

bate, the bill was reported to the House and on February 25 the struggle began. As Congress was to adjourn before midnight of March 3, the minority, determined to prevent a vote, organized a filibuster against the bill.* In spite of such tactics, however, the bill was brought to a vote and passed the House at about five o'clock on the morning of February 28 by a vote of 64 to 12† and the Senate on March 2 by a vote of 20 to 7,‡ and was approved by the President the same day.¶ The bill provided that American ships and cargoes leaving British ports prior to February 2 should not be confiscated and that, until the President proclaimed the revocation of the Orders in Council, nine sections of the Non-intercourse Act of 1809 should be enforced.

There was nothing in these sections forbidding the shipment of American goods to England. It was on British wares and merchandise that the restriction was laid; and by forbidding the importation of British merchandise, Congress struck off half the annual revenue. Gallatin foresaw the danger to the Treasury and on January 28 wrote to Eppes recommending

* For the speeches, see *Annals*, pp. 1010-1029, 1033-1096; Benton, *Abridgment*, vol. iv., pp. 370-398.

† *Annals*, p. 1094.

‡ *Ibid.*, pp. 357-358, 360-361.

¶ *United States Statutes-at-Large*, vol. ii., p. 651; *Annals*, pp. 1338-1339. See also Schouler, *United States*, vol. ii., p. 345; McMaster, vol. iii., pp. 394-397; Adams, *United States*, vol. v., pp. 352-354; Babcock, *Rise of American Nationality*, p. 39.

* Adams, *United States*, vol. v., p. 349.

† *Annals of Congress*, 11th Congress, 3d session, p. 989.

‡ *Ibid.*, pp. 998-999.

¶ *Ibid.*, p. 999; Adams, *United States*, vol. v., pp. 351-352.

increased duties on such importations as might be admitted by law. On February 6 Eppes reported a bill to this effect.* But Congress would consent to no such taxation and, as the Treasury could not be allowed to fail in its engagements, the House authorized the President to negotiate a loan of \$5,000,000.† At the last moment of the session another debate took place on a bill authorizing the President to accept a corps of 50,000 volunteers. This bill had been reported to the Senate by Crawford, of Virginia, and was passed on March 1 without a division.‡ When the bill reached the House, however, it encountered much opposition and was indefinitely postponed.¶ At midnight on March 3, the Eleventh Congress adjourned.

But all was not harmony in the Cabinet at this time. So venomous had been the attacks on Gallatin's integrity that his patience gave way shortly after the adjournment of Congress and in March of 1811 he tendered his resignation.§ But Madison promptly and wisely refused to accept the resignation. He also authorized Gallatin to ascertain if James Monroe would accept the post of Secretary of State, since in order to retain Gallatin it would be necessary to request the resignation of Secretary Smith, with whom the President's relations

had become unpleasant.* Gallatin applied to Richard Brent, one of the Senators from Virginia, who wrote to Monroe on March 7. Monroe (who but a few weeks before had condemned the Administration, declared he feared a crisis and described Madison's policy as one of "improvident and injudicious measures,"†) consulted his friends and was advised by them to accept, since Madison's invitation seemed to indicate a change in the policy of the Administration—that, instead of favoring France, the Administration would act in a conciliatory manner toward England.‡ When Madison learned of Monroe's willingness to become Secretary of State, he requested Smith to resign, offering to appoint him minister to Russia.¶ In a few days, however, Smith declined the offer and retired to Baltimore, where, in the heat of passion, he foolishly revealed his woes in a long address to the people of the United States, who cared nothing for him. Madison felt the strictures contained in this address to the people and, prevented from answering them himself, employed Joel Barlow to do it for him. The semi-official reply appeared in the *National*

* For Madison's version of his rupture with Smith, see Madison's *Works* (Congress ed.), vol. ii., pp. 495-506.

† See his letter to Tazewell, February 6, 1811, quoted in Adams, *United States*, vol. v., p. 368.

‡ Adams, *United States*, vol. v., pp. 366-374. See also Hamilton's ed. of *Monroe's Writings*, vol. v., pp. 110, 178, 183, 185.

¶ Madison's *Works* (Congress ed.), vol. ii., p. 494.

* *Annals*, p. 906.

† *Ibid.*, pp. 1101, 1103.

‡ *Ibid.*, p. 356.

¶ *Ibid.*, pp. 1101, 1107-1108.

§ Adams' ed. of *Gallatin's Writings*, vol. i., pp. 495-496; Adams, *Life of Gallatin*, p. 434.

Intelligencer, to which Smith rejoined in a temper still worse.*

The regency established in England on February 6, 1811, wrought no change in the feeling toward the United States. Pinkney had been instructed, in case England did not appoint a minister to succeed Jackson, to ask for his passports and return to the United States.† Before these instructions were received, Pinkney had endeavored to secure a decision from the British government as to the revocation of her Orders in Council. On November 3, 1810, he wrote to Lord Wellesley asking that these Orders be repealed on the ground that Napoleon's revocation had already taken effect.‡ He offered no evidence to support his assertion, and when Wellesley replied on December 4 he pleaded his inability to obtain any authentic intelligence of the French repeal and asked Pinkney to furnish whatever information he possessed on the subject.§ Pinkney possessed none, but soon afterward received news of the President's proclamation based on the French repeal. This the more determined him to hold his ground; but, finding talk ineffective, he began to write. On December 10 he pre-

sented to Wellesley what seemed to him evidence of the French repeal in Cadore's letter of August 5, wherein two disjunctive conditions of repeal were made — one depending on Great Britain and the other on the United States. Pinkney said that, although England had not satisfied the first condition, the United States would undoubtedly meet the second; and this constituted a repeal of the French Decrees.*

This argument might have appeared less ridiculous, had not Jonathan Russell been engaged at that very moment in remonstrating with the French government for the seizure of American vessels at Bordeaux, and had not the *Moniteur* published Cadore's official report declaring that the Decrees would never be repealed so long as England maintained her blockades. In reply, on December 29, Wellesley said that the British government had always been sincerely disposed to repeal the Orders in Council, but that it appeared both from the letter of the French minister and from Pinkney's explanation that neither the French nor the American government would be satisfied by the repeal. He declined to consider the demand that the British government revoke the blockade orders and appealed to the American sense of justice not to force an issue on such grounds. He said that when the Berlin and Milan Decrees were actually

* Adams, *United States*, vol. v., pp. 374-379; Schouler, *United States*, vol. ii., pp. 355-356; Channing, *The Jeffersonian System*, pp. 250-252; Babcock, *Rise of American Nationality*, pp. 13-15.

† *American State Papers, Foreign Relations*, vol. iii., p. 375.

‡ *Ibid.*, p. 373; Pinkney, *Life of Pinkney*, pp. 249-251.

§ *American State Papers, Foreign Relations*, vol. iii., p. 376.

* *Ibid.*, vol. iii., pp. 376-379; Pinkney, *Life of Pinkney*, pp. 254-266.

repealed, the British government would revoke the Orders in Council.* Replying to Wellesley on January 14, 1811, Pinkney said that, in respect to the blockade, the demands of America and France were the same, but rested on different grounds:

"It is by no means clear that it may not be fairly contended, on principle and early usage, that a maritime blockade is incomplete, with regard to States at peace, unless the place which it would affect is invested by land as well as by sea. The United States, however, have called for the recognition of no such rule. They appear to have contented themselves with urging, in substance, that ports not actually blockaded by a present, adequate, stationary force, employed by the power which attacks them, shall not be considered as shut to neutral trade in articles not contraband of war; * * * that a vessel, cleared or bound to a blockaded port, shall not be considered as violating, in any manner, the blockade, unless, on her approach towards such port, she shall have been previously warned not to enter it; * * * that whole coasts and countries shall not be declared (for they can never be more than declared) to be in a state of blockade; * * * and lastly that every blockade shall be impartial in its operation."†

The United States, on the other hand, required the revocation of the Orders in Council on the ground that England had pledged her faith to revoke them whenever France repealed her Decrees. France having done this, England could not honorably refuse to revoke the Orders. Furthermore, Pinkney informed Wellesley that he had been instructed, in case no minister had been appointed to succeed Jackson, to ask for his passports and return home. No suc-

cessor to Jackson had been appointed, and therefore Pinkney wrote to Wellesley on February 13 for an audience of leave.* Two days before this, however, Wellesley sent Pinkney the following reply regarding his note on the blockade:

"France requires that Great Britain shall not only repeal the Orders in Council, but renounce those principles of blockade, which are alleged, in the same letter, to be new; an allegation which must be understood to refer to the introductory part of the Berlin Decree. If Great Britain shall not submit to those terms, it is plainly intimated in the same letter that France requires America to enforce them. To these conditions his Royal Highness, on behalf of his Majesty, cannot accede. No principles of blockade have been promulgated or acted upon by Great Britain previously to the Berlin Decree, which are not strictly conformable to the rights of civilized war, and to the approved usages and laws of nations. * * * I am commanded to inform you that his Royal Highness cannot consent to blend the question which has arisen from the Orders in Council with any discussion of the general principles of blockade."†

To this Pinkney replied on February 13 that he would not trouble his lordship further on the subject, and though he received an invitation to the diplomatic levee on February 19, he curtly requested that the prince-regent grant him an audience of leave.‡ The effect was immediate. Within two days Wellesley apologized for the delay in appointing a minister to the United States and announced that Augustus J. Foster had been named.§ While there was no need for Pinkney to leave London, he never-

* *American State Papers, Foreign Relations*, vol. iii., pp. 408-409.

† *Ibid.*, vol. iii., pp. 409-411; Pinkney, *Life of Pinkney*, pp. 266-276.

* *American State Papers, Foreign Relations*, vol. iii., pp. 412-413.

† *Ibid.*, vol. iii., p. 412.

‡ *Ibid.*, vol. iii., pp. 412-413.

§ *Ibid.*, vol. iii., p. 413.

theless wrote on February 23 for an audience of leave on February 28.* Before he had done so, however, he wrote to Wellesley (February 17) asking what the new minister to the United States was to do. Would he restore harmony between the two nations? Would he announce the repeal of the Orders in Council, the annulment of the blockade of 1806, the settlement of the *Chesapeake* affair? Would he, in short, do all such "just and reasonable acts as are necessary to make us friends?"† The meaning of this note could not be misunderstood; it was in effect an ultimatum. In reply, on February 23, Wellesley refused "to relinquish any of the principles which I have so often endeavored to explain to you."‡ Thereupon the audience of leave was given,|| and a few weeks later Pinkney sailed from England, leaving the legation in charge of John Spear Smith.§ Shortly after he left, Foster departed for the United States with instructions to protest against the seizure of the Floridas, to make a settlement of the *Chesapeake* affair satisfactory to the United States, to represent that the French decrees had not been repealed, and that the blockade of 1806

would not be lifted.* But, while he was on the high seas, an event occurred which his new instructions did not cover.

Ever since the attack on the *Chesapeake*, the officers and men of the navy longed to wipe out the disgrace of that affair, and the whole maritime force of the nation was kept at home. Two British ships (the *Melampus* and *Guerrière*) lay off Sandy Hook, where they so boldly and impudently committed depredations on American merchantmen bound for France that it became necessary to interfere. When complaints of their doings reached Washington, Secretary of the Navy Paul Hamilton ordered Commodore John Rodgers to sail at once with his flagship the *President*, 44, to protect American commerce from unlawful interference by French and British cruisers.† Rodgers sailed from Annapolis on May 10 and at noon on the 16th, when about 30 miles from Cape Charles and about six leagues from the land, made a sail.‡ Believing her probably the *Guerrière*, Rodgers decided to get within hail to ascertain whether a man said to have been impressed a few days before from an American brig was aboard.|| At 2 o'clock the *President* set a broad pennant and ensign whereupon the

* *American State Papers, Foreign Relations*, vol. iii., p. 415.

† *Ibid.*, vol. iii., p. 414; Pinkney, *Life of Pinkney*, pp. 276-277.

‡ *American State Papers, Foreign Relations*, vol. iii., p. 415.

|| Adams, *United States*, vol. vi., p. 19 *et seq.*

§ On December 2 following, Pinkney became Attorney-General, succeeding Cæsar A. Rodney. See Pinkney, *Life of Pinkney*, p. 61.

* McMaster, vol. iii., p. 402; Adams, *United States*, vol. vi., p. 22 *et seq.*

† Charles O. Paullin, *Commodore John Rodgers*, pp. 211, 219 (1910).

‡ Lossing, *Field-Book of the War of 1812*, pp. 181-182.

|| Paullin, *Life of Rodgers*, pp. 223-224.

stranger began to make signals until, finding them unanswered, she wore around and stood to southward.* Rodgers then determined to give chase and at about 8:30 came within speaking distance of the stranger. According to the report rendered by Rodgers, after rounding to, he hailed the unknown vessel through a trumpet calling out "What ship is that?" The English vessel did not answer, but hailed in return. After a short pause, Rodgers gave a second hail. Instead of replying, the stranger fired a ball into the main mast of the *President*.† Before Rodgers could give an order, the third lieutenant on the *President*, Alexander James Dallas, leaped to one of the guns in his division and fired it. The stranger answered with three shots and a discharge of musketry. The *President* sent back two broadsides and in about five minutes the enemy seemed to be silenced, whereupon Rodgers gave the order to cease firing.‡ Three minutes afterward, however, the stranger

opened up again and maintained a fire for about 15 minutes, when she was completely disabled by the *President* and lay at her mercy. At day-break Rodgers learned that the stranger was his Majesty's ship *Little Belt*, a corvette rated as an 18 but carrying 22 guns under command of Captain A. B. Bingham. She escaped destruction, but all her rigging and sails were cut to pieces, not a brace nor a bowline was left, all her upper works were shot away, her starboard pump was gone, her masts as well as her rigging and hull were much injured, and she had received shot between wind and water. Besides, 32 men were killed and wounded. The *President* came out of the action with two boys wounded and her rigging slightly damaged.

The news of this event considerably stirred up the Americans. But as the result was satisfactory, interest in the affair died quickly; and when Foster landed in the United States, the people had almost ceased disussing it. The news, however, took away Foster's only hope of a cordial reception. He had come to conciliate the United States by settling the *Chesapeake* affair, but found that the Americans cared little about it now that that outrage had been offset by the exploit of Commodore Rodgers. Therefore, instead of offering redress, Foster felt himself obliged to claim it. Immediately after landing, Foster set off for Washington, and on July 2 was received by the President. The very

*The story as given is as told by Rodgers and sworn to by every officer and man of his crew. The British version of the fight and the testimony in the court of inquiry will be found in *American State Papers, Foreign Relations*, vol. iii., pp. 473-498. See also *Niles' Weekly Register*, vol. i., p. 33 *et seq.* The evidence, reports, etc. are collated in Dawson, *Battles of the United States*, vol. ii., chap. xiii. The proceedings of the court-martial of Rodgers (August, 1811) accompany the President's message of November 6, 1811. See *Annals of Congress*, 12th Congress, 1st session, pt. ii., pp. 1874-1930.

† Maclay, *History of the Navy*, vol. i., p. 314; Paullin, *Life of Rodgers*, p. 225.

‡ Lossing, *Field-Book of the War of 1812*, p. 184.

same day he entered on the duties of his mission by writing a letter protesting against the occupation of West Florida, closing his note with a formal notice that, should the United States persevere in her course, he would be compelled under his instructions to present the solemn protest of the British government "against any attempt so contrary to every principle of public justice, faith, and national honor." He followed this the next day with a still longer protest against non-importation.* In this letter Foster stated concisely the grounds on which Great Britain rested her Orders in Council and the reasons for her refusal to revoke them. In British eyes the Berlin Decree was a direct act of war. It forbade all trade with her ports, though she had not the means to enforce the prohibition. England was justified by such wanton violation of the laws of civilized war in retaliating by interdicting the commerce of France. England, however, did not go the length of France, since she did not prohibit all commerce with her enemy, but only such as was not carried on through her ports. His British majesty regretted that these restrictions injured neutral nations, but it must be remembered that France was the aggressor and had forced Great Britain to issue the Orders in Council in self-defence. His majesty justified his Orders by the existence of the Berlin and Milan

decrees. It was true, Napoleon rested the Berlin Decree on what he called the British extension of the law of blockade. According to him, Great Britain had extended to unfortified towns and commercial ports, to harbors and other mouths of rivers that system of blockade which under the laws of nations was limited to fortresses really invested by force. There was nothing to justify the rule that no place except fortresses actually invested by force could be deemed lawfully blockaded; it was a rule made by Napoleon to suit his own purposes. In support of his Berlin Decree, he again asserted that Great Britain had declared places in a state of blockade before which she had not a single ship. This was false. Great Britain had never maintained that a blockade was valid unless backed by an adequate force. In this light her blockade of May of 1806, of the coast from Brest to the Elbe was lawful, since it was maintained by a force appointed for that special purpose. Therefore the Berlin Decree had no substantial basis. The attempted justification was but a pretense; the decree could not be called a measure of just retaliation, as were the British Orders in Council, but was a direct act of war. Accordingly, as the Orders were enforced in retaliation for the decrees, they could not be revoked until the decrees prompting them had been repealed. Foster reminded Monroe of Napoleon's speeches, of Cadore's report, of the letter of the minister of

* *American State Papers, Foreign Relations*, vol. iii., pp. 435-437.

justice to the president of the council of prizes, of the various seizures of American vessels, and asked if in the face of such evidence the assertion by the United States that the decrees had been repealed could be supported. He then urged the injustice of non-importation.* The question was pertinent but embarrassing, and many conferences were held before Monroe answered. He was sparring for time, and while he put off the British minister, he labored hard with the French representative.

When Armstrong departed from France for the United States (February 12, 1810), he left Jonathan Russell in charge of the legation at Paris. Armstrong bore with him Cadore's letter of August 5 promising that the Berlin and Milan Decrees would be repealed on November 1. When that day arrived Russell wrote Cadore asking if the revocation had taken place. A month went by without an answer, and while still waiting Russell received a copy of the President's proclamation of November 2 and instructions requiring him to consider the decrees as revoked. This was obviously impossible, since two days after receiving the instructions Russell read in the *Moniteur* of December 15 Cadore's report to the emperor declaring that the decrees would never be revoked until England rescinded her blockade orders. Furthermore, the fact of the seizures of American

vessels by the French authorities belied the instructions. Obeying his instructions, Russell sent the proclamation to Cadore, and informed him of the President's belief that his promise of August 5 had been made good; but at the same time he took occasion to request an explanation of a recent address by Count Semonville and of Cadore's report, and to insist that the system of issuing French licenses to vessels in American ports must stop. To this no official answer was ever returned. When Napoleon received the copy of Madison's proclamation together with Russell's letter, his delight was so great that he sent for Russell, assured him of his love for America, said that the decrees so far as they related to the United States were at an end, and gave him the two letters from the ministers of justice and finance which Madison submitted to Congress late in February in proof of his assertion that the Berlin and Milan decrees had been repealed and which Congress used as grounds for the Non-importation Act of March 2.*

However, Cadore informed Russell that the Emperor was determined to persevere in his system against England; he had overturned the world to adopt this system and would overturn it again to give it effect. Russell could obtain no promise from Cadore in regard to the confiscated property of American merchants. Though

* McMaster, vol. iii., pp. 406-407; *American State Papers, Foreign Relations*, vol. iii., p. 436.

* McMaster, vol. iii., p. 408; Adams, *United States*, vol. v., pp. 388-390.

there was nothing in Cadore's conduct to warrant the belief that the decrees had been revoked, Cadore sent word that one of the American vessels sequestered at Marseilles had been released. Russell thereupon wrote to Pinkney that in his opinion this release might be considered conclusive evidence of the revocation. A month later, however, (January 28, 1811) he wrote to Secretary of State Smith in a somewhat different tone, saying that the United States had not much cause for satisfaction, as no vessel arriving after December 1 had been permitted to discharge her cargo. Furthermore, Russell ascertained that the French government would not enter into a convention for the reclamation of the property confiscated before November 1.* To offset this, however, Russell was successful in one or two other points. Madison had protested against granting licenses through the French consuls to vessels in American ports. On January 12, 1811, Russell wrote to Cadore as to the inadmissibility of such a course and stated that it would no longer be permitted. On January 18 Cadore answered that, while this system had been conceived before the revocation of the Berlin and Milan decrees had been resolved upon, the resolution taken by the United States to compel respect to their flag had completely changed conditions and the rule would no longer apply. In

this letter, too, Cadore said that the revocation of the decrees was complete.* Russell sent this letter to the President, as we have already seen, and nearly ten months afterward Madison sent it to Congress as proof that the Decrees had been revoked. As a matter of fact, however, the contrary was the case, as is witnessed by a letter from Cadore to Serurier, February 9, 1811, which in effect stated that the Decrees had not been revoked—would not be revoked on February 2—and that the emperor would wait until he received news from America before taking any definite action.† As late as March 17 Napoleon himself, in an address to some deputies of the Hanseatic League asserted that “The decrees of Berlin and Milan, founded on the nature of things, will form the constant law of my empire during the whole time that England shall maintain her Orders in Council of 1806 and 1807, and shall violate the stipulations of the treaty of Utrecht in that manner.”‡

Russell sent accounts of Napoleon's speeches to Monroe; but being without powers or instructions, he could not do anything. Remonstrance was worse than useless. At length, on April 25, Russell received a copy of the Non-intercourse Act of March 2 and the secret act for taking posses-

* *American State Papers, Foreign Relations*, vol. iii., p. 501.

† Adams, *United States*, vol. v., p. 393.

‡ *Ibid.*, vol. v., pp. 396-397.

* Adams, *United States*, vol. v., pp. 391-392.

sion of Florida. Accompanying these documents were instructions directing Russell to explain that the different dates fixed by the proclamation and by the act for enforcing non-intercourse against England were due to the different constructions of Cadore's letter in France and America — the President having assumed that the decrees would be extinct by November 1, 1810, while the French government understood this as only suspending the decrees with a view to a subsequent cessation. On April 28 Russell delivered copies of these acts to the new minister of foreign affairs, Hugues Maret, Duke De Bassano, and on May 4, 1811, the emperor made known his decision to release such ships as had come direct to France or Italy since November 1 and had been sequestered.* But there were other ships in French ports brought in by French privateers for having touched at English ports. On May 11 Russell wrote to Bassano asking that these vessels be released, but received no answer.† Napoleon was eager for delay, and two months passed before Bassano replied that three out of the eight vessels captured had been released.

It was late in July when Madison learned of the release of the ships in May. This news was gratefully received but a few days later official dis-

patches arrived from France informing the country that Napoleon had not withdrawn and did not mean to withdraw his Decrees.* According to Serurier's report, Madison was delighted, although not surprised, at the release of the sequestered ships and the emperor's decision to admit American products. But one thing pained him keenly; that the American ships captured since November 1 by French cruisers, under pretext of the Berlin and Milan decrees, had not been released with those that had entered French ports voluntarily. Madison said that the failure to fulfill the chief part of the contract invalidated all the rest.

At the same time Monroe answered Foster's letter of July 3.† His note, although long, contained nothing new. He maintained that the decrees had been repealed as far as the United States was concerned, which was proven by the fact that since November 1, 1810, no American vessels had been condemned under the decrees. The seizure of the two vessels at Bordeaux and Marseilles were not cases in point, since they had been seized under municipal and not under international law. They had come from a British port and had attempted to enter into a French port goods forbidden to come into France. The speech of the deputies from the Hanseatic towns again proved the fact

* *American State Papers, Foreign Relations*, vol. iii., p. 505. See also Babcock, *Rise of American Nationality*, pp. 47-48.

† *American State Papers, Foreign Relations*, vol. iii., p. 506.

* *Ibid.*, vol. iii., pp. 508-509.

† *Ibid.*, pp. 439-442; Hamilton's ed. of Monroe's *Writings*, vol. v., p. 354.

of repeal, as did also the reports of the ministers of marine and foreign affairs. Napoleon had declared that France would discontinue her blockade of England in favor of those nations for whom England should revoke her blockade of the continent or who should resist the pretensions of England. By the act of May of 1810, the United States had fulfilled these conditions. What more could England expect? Was it the business of the United States to open the continent of Europe to English commerce? As far as the United States was concerned the French Decrees no longer operated on the high seas, and more than this the United States could not claim.* Thus, in 24 hours before

Madison's conversation with Serurier, Monroe had declared to Foster that Napoleon was enforcing the municipal and not the international operation of the Decrees. Yet the ships sequestered were those seized under the international orders, and the ships freed were those seized under the municipal operations of the Decrees, proving that Napoleon's conduct was very opposite of what Monroe had stated.

Nevertheless having proven to his own satisfaction that Napoleon was acting in good faith, Madison issued a proclamation calling Congress together on November 4,* and then left Washington for his summer vacation in Virginia.†

CHAPTER XII.

1810-1812.

THE FLORIDAS: LOUISIANA: AMELIA ISLAND.

Attempt of people of West Florida to form separate government — Declaration of independence by people of New Feliciana — Capture of Spanish fort at Baton Rouge — West Florida's offer of annexation to the United States — Madison's perplexity — His proclamation and orders to Claiborne — Occupation of Baton Rouge and other places — Revolution in East Florida — Folch's offer of annexation — Madison's messages to Congress — Debates in Congress — Appointment of commissioners — Debate on the admission of Orleans — Quincy's threat of secession — Admission of the State — Formation of a constitution — Division of West Florida and formation of Mississippi Territory — Actions of Commissioners at Amelia Island — Occupation of Fernandina — Action of Congress.

Meanwhile a new element of discord had injected itself into the already perplexed condition of affairs. After Joseph Bonaparte had been placed on the throne of Spain, almost every province of Spanish America revolted

— Buenos Ayres, Caracas, Venezuela, New Granada, and Mexico — and a revolutionary spirit was manifested also in Cuba and West Florida. In

* *American State Papers, Foreign Relations*, vol. iii., pp. 439-442.

* Richardson, *Messages and Papers*, vol. i., p. 491.

† Adams, *United States*, vol. vi., pp. 64-65; McMaster, vol. iii., p. 411.

West Florida the first district to feel the influence of the revolutionary spirit was New Feliciana, which lay along the Mississippi River just across the American boundary line of 31°. American influence had steadily spread in the province and the Spanish power had begun to wane. As the number of the Americans increased, the Spanish flag at Baton Rouge became less and less agreeable to them; and, seeing in the general confusion in the Spanish provinces an excellent opportunity to free themselves from the arbitrary rule of Spain, agitation was begun to form a separate government, a call was issued for a convention, and about the middle of July of 1810 the citizens of West Florida appointed four delegates. Baton Rouge, St. Helena and Tanchipahoe responded also. The governor, Don Carlos De Hault De Lassus, consented to the convention; and on July 25 the sixteen delegates assembled at St. John's Plains. After deliberating two days, the members of the convention informed the governor that a committee had been chosen to frame a plan of government and that the convention had adjourned to the second Monday in August.* The proposed government was to consist of a governor, secretary of state, and three counsellors of state chosen by the people. The governor was to be vested with all executive power; the three counsellors were to be vested

with all legislative powers; and three years later a convention was to be held at Baton Rouge to form a permanent constitution. This, however, appeared too radical; and in August, when the convention reassembled, the delegates merely suggested a few reforms, which De Lassus promised to put into execution. A provisional government under Spain was recommended, courts of justice as similar to those of the United States as possible under Spanish law, naturalization of aliens, a militia, land officers, and a printing press controlled by the Supreme Court were among the other reforms.*

The men of New Feliciana, however, wanted an independent government and a great majority of the people desired to be annexed to the United States. They therefore pledged themselves not to submit to the terms of the August convention and on September 22 held a convention of their own, in which a declaration of independence was framed, a constitution and flag adopted, a standing army of 104 men raised, and a president elected.† As De Lassus had failed to carry out the promised reforms, the convention ordered Philemon Thomas to take the

* McMaster, vol. iii., pp. 370-371; Phelps, *Louisiana*, p. 248. See also H. L. Favrot, *Some Account of the Causes that Brought about the West Florida Revolution*, in *Louisiana Historical Publications*, pt. ii.; Chambers, *West Florida and Its Relation to the Historical Cartography of the United States*, in *J. H. U. Studies*, series xvi., no. v.; Ogg, *Opening of the Mississippi*, p. 643 *et seq.*

† Ogg, *Opening of the Mississippi*, p. 644; McMaster, vol. iii., p. 371.

* Fuller, *The Purchase of Florida*, p. 183.

Spanish fort at Baton Rouge, then in charge of Louis Grand Pré. Collecting a crowd of boatmen, Thomas hurried to the fort which was defended by 20 half-sick and incapacitated men.* Grand Pré rejected the summons to surrender, and the Americans stormed the works, in the attack basely killing the commander. On hearing of the success of Thomas, the convention declared West Florida a free and independent State, on September 26 issuing a proclamation to that effect.† The convention also instructed its president, John Rhea, to offer annexation to the United States on the following terms: that West Florida should become either a State or a Territory with a government of its own, or at least should become a part of Orleans; that it should have full possession of its public lands; and that the United States should loan it \$100,000.‡

There were innumerable obstacles in the way of an immediate recognition of the new State. Under the Constitution the President had no power to use the army or navy of the United States beyond the National limits without the sanction of Congress; and although the President might have been excused in taking such action if there had been an extreme

emergency, no such emergency existed in October of 1810, since Congress was to meet in about six weeks and neither Spain, France, nor England could interfere in the interval. The President's only legal course was to await action by Congress. But though Madison was well aware of this, other considerations had more weight with him. Writing to Jefferson October 19, 1810, he said:

"The crisis in West Florida, as you will see, has come home to our feelings and interests. It presents at the same time serious questions as to the authority of the Executive, and the adequacy of the existing laws of the United States for territorial administration. And the near approach of Congress might subject any intermediate interposition of the Executive to the charge of being premature and disrespectful, if not of being illegal. Still, there is great weight in the considerations that the country to the Perdido, being our own, may be fairly taken possession of, if it can be done without violence; above all, if there be danger of its passing into the hands of a third and dangerous party."*

On October 27, therefore, Madison issued a proclamation in which, after reciting the necessity for such action, he said that he "deemed it right and requisite that possession should be taken of the said territory in the name and behalf of the United States."†

* Madison's *Works* (Congress ed.), vol. ii., p. 484.

† Writing to William Pinkney October 30, 1810, Madison said: "The occupancy of the Territory as far as the Perdido was called for by the crisis there, and is understood to be within the authority of the Executive. East Florida, also, is of great importance to the United States, and it is not probable that Congress will let it pass into any new hands. It is to be hoped G. Britain will not entangle herself with us by seizing it, either with or without the privy of her allies in Cadiz." — Madison's *Works* (Congress ed.), vol. ii., p. 488.

* Fuller, *The Purchase of Florida*, p. 184.

† *American State Papers, Foreign Relations*, vol. iii., p. 396. See also Phelps, *Louisiana* p. 249; Adams, *United States*, vol. v., p. 307.

‡ *American State Papers, Foreign Relations*, vol. iii., pp. 395, 396; *Annals of Congress*, 11th Congress, 3d session, pp. 1252-1254.

"William C. C. Claiborne, Governor of the Orleans Territory of which the said territory is to be taken as part, will accordingly proceed to execute the same and to exercise over the said Territory the authorities and functions legally appertaining to his office." The people were enjoined also "to be obedient to the laws, to maintain order, to cherish harmony, and in every manner to conduct themselves as peaceable citizens."* On the same date the President sent a letter to Claiborne, then at Washington, informing him that

"If, contrary to expectation, the occupation of this [revolutionized territory] should be opposed by force, the commanding officer of the regular troops on the Mississippi will have orders from the Secretary of War to afford you, upon your application, the requisite aid. * * * Should, however, any particular place, however small, remain in possession of a Spanish force, you will not proceed to employ force against it, but you will make immediate report thereof to this Department."†

The President then sent to the revolutionary convention at Baton Rouge a sharp message through Governor Holmes of the Mississippi Territory, to the effect that their declaration of independence was an impertinence

* Richardson, *Messages and Papers*, vol. i., pp. 480-481; *American State Papers, Foreign Relations*, vol. iii., pp. 396-398; *Annals of Congress*, 11th Congress, 3d session, pp. 1257-1258. See also Hunt, *Life of Madison*, p. 314; Adams, *United States*, vol. v., pp. 310-312; Babcock, *Rise of American Nationality*, pp. 23-25; Bruce, *The Romance of American Expansion*, p. 57; Chadwick, *Relations of the United States and Spain*, pp. 112-113.

† *American State Papers, Foreign Relations*, vol. iii., p. 396; *Annals of Congress*, 11th Congress, 3d session, pp. 1256-1257.

and their designs on the public lands far worse.*

On receiving his instructions, Claiborne sped southward as rapidly as possible, and by the end of November of 1810 was scattering copies of the proclamation throughout West Florida. By that time the new State had been organized and Fulwar Skipwith had been chosen governor. To him Claiborne's action seemed particularly offensive. He accordingly protested and, recalling Philemon Thomas, whom he had sent to attack Mobile, shut himself up in the fort at Baton Rouge and defied Claiborne.† The latter then gathered some troops, ordered up some gunboats from New Orleans, and in two days entered Baton Rouge. He at once raised the Stars and Stripes; but the malcontents gathered in force, tore it down, and raised the Lone Star flag instead. But when the troops and gunboats arrived, the opposition quickly disappeared and even the fort was quietly surrendered. Before the end of the year the American flag was flying in the districts of Baton Rouge, New Feliciana, St. Helena, St. Ferdinand and Tanchipaho.‡

* Smith to Holmes, November 15, 1810, *American State Papers, Foreign Relations*, vol. iii., p. 398; *Annals of Congress*, 11th Congress, 3d session, pp. 1258-1259.

† Fuller, *The Purchase of Florida*, p. 185.

‡ McMaster, vol. iii., pp. 272-273; Ogg, *Opening of the Mississippi*, pp. 645-646; Gayarré, *History of Louisiana*, vol. iv., chap. v. In addition to the monograph of H. E. Chambers, previously mentioned, see also the same author's *A Short Lived American State*, in *Magazine of American*

Beyond the Pearl a state of confusion existed. The founding of the new State of West Florida raised up visions of independence in the minds of those who lived east of the Pearl, and under the lead of Reuben Kemper they revolted against the rule of Spain and marched against the Spanish forces at Mobile, but were driven back. But the outbreak at Baton Rouge and the fact that he had been neglected by his own government so disgusted the governor, Vincente Folch, that on December 2, 1810, he wrote to Secretary of State Smith offering, in case aid did not come from Havana or Vera Cruz before January 1, 1811, to give up both Floridas to the United States.* As this letter was over a month in transit, Congress was in session when it arrived.†

The third session of the Eleventh Congress assembled December 3, 1810, and on the 5th the President sent in his second annual message.‡ Respecting West Florida the President spoke as follows:

"Among the events growing out of the state of the Spanish monarchy, our attention was im-

History, vol. xxvii., pp. 24-29. See also *The impartial inquirer, being a candid examination of the conduct of the President in execution of the powers vested in him by Act of Congress, May 1, 1810* [with] *Reflections upon the invasion of West Florida. By a citizen of Massachusetts* [John Lowell] (Boston, 1811).

* *American State Papers, Foreign Relations*, vol. iii., p. 398; *Annals of Congress*, 11th Congress, 3d session, pp. 1259-1260; Fuller, *The Purchase of Florida*, p. 186.

† McMaster, vol. iii., p. 373.

‡ Richardson, *Messages and Papers*, vol. i., pp. 482-487; *Annals of Congress*, 11th Congress, 3d session, pp. 11-15.

periously attracted to the change developing itself in that portion of West Florida which, though of right appertaining to the United States, had remained in the possession of Spain awaiting the result of negotiations for its actual delivery to them. The Spanish authority was subverted and a situation produced exposing the country to ulterior events which might essentially affect the rights and welfare of the Union. In such a conjuncture I did not delay the interposition required for the occupancy of the territory west of the river Perdido, to which the title of the United States extends, and to which the laws provided for the Territory of Orleans are applicable. With this view, the proclamation of which a copy is laid before you, was confided to the Governor of that Territory to be carried into effect. The legality and necessity of the course pursued assure me of the favorable light in which it will present itself to the Legislature, and of the promptitude with which they will supply whatever provisions may be due to the essential rights and equitable interests of the people thus brought into the bosom of the American family."

The letter which Folch had sent to Secretary Smith was received on January 2, 1811, and on the next day was sent to Congress by Madison in a special message. In this message Madison recommended that a declaration be made by Congress "that the United States could not see without serious inquietude any part of a neighboring Territory in which they have in different respects so deep and so just a concern pass from the hands of Spain into those of any other foreign power." Madison asked also for authority "to take temporary possession of any part or parts of the said Territory" and to make "provision for the government of the same during such possession."* When this

* Richardson, *Messages and Papers*, vol. i., p. 488. See also Babcock, *Rise of American Nationality*, pp. 25-26.

message reached the Senate, that body was already debating a bill regarding West Florida. That part of the annual message relating to the occupation of West Florida had been referred to a committee, and on December 18 Senator Giles reported a bill by which all the region south of Mississippi Territory, east of the Mississippi River and west of the Perdido was declared to be a part of the territory of Orleans and under the government of the laws then in force in Orleans.* The Federalists denounced the proclamation as unconstitutional and illegal, charging that the government was under French influence — one even going so far as to say that the President was throwing the people “into the embrace of that monster at whose perfidy Lucifer blushed and Hell stands astonished.”† The Republicans denied this and taunted the Federalists with being under British influence.‡ In the midst of the debate the President’s message of January 2, 1811, was sent in, together with Governor Folch’s letter; and the Senate went into secret session. As a result of their deliberations, Madison signed a joint resolution and a bill two weeks later (January 15, 1811.)§ The resolution

stated that it was necessary to occupy West Florida temporarily, subject to future negotiations; and the bill authorized the President to take and hold East Florida if the local authorities were willing or if a foreign power should attempt to occupy it.¶ The President immediately appointed two commissioners (George Matthews and John McKee) to carry the law into effect and ordered their instructions to be made ready at once. Thus the United States claimed all the territory from the Mississippi to the Perdido, though her authority did not extend to Mobile and she was not even ready to enforce authority to the Pearl.

Meanwhile, early in the session, the inhabitants of the Territory of Orleans had petitioned to be admitted to statehood.† On December 17 the Speaker appointed a committee, with Macon at its head, to report on the admission of the territory; and on the 27th Macon reported a bill admitting Louisiana with West Florida to the Perdido as a State.§ The question whether Louisiana included West

* *Annals of Congress*, 11th Congress, 3d session, pp. 25-26.

† Gay, *Life of Madison*, p. 297.

‡ For the debate see *Annals*, pp. 37-66; Benton, *Abridgment*, vol. iv., pp. 253-264. For Clay’s defence see Clay, *Life of Clay*, pp. 54-57.

§ *United States Statutes-at-Large*, vol. iii., p. 471. For the proceedings see *Annals*, pp. 370-379, 1117-1142.

* Fuller, *The Purchase of Florida*, pp. 187-188; Adams, *United States*, vol. v., pp. 319-323, 326-327; Carpenter, *The American Advance*, p. 82; McMaster, vol. iii., pp. 373-375. An act was passed, however, forbidding the promulgation of these acts before the end of the next session of Congress. As it happened, they were not promulgated till published in the first acts of the Fifteenth Congress ending April 30, 1818. (Schouler, *United States*, vol. ii., 346-347.)

† The text of the application is in *American State Papers, Miscellaneous*, vol. ii., pp. 51-52.

‡ *Annals of Congress*, 11th Congress, 3d session, p. 466.

Florida greatly perplexed the Senate. If this were the case, then under the terms of the third article of the Louisiana purchase the inhabitants of Mobile and the district between Mobile and Baton Rouge without division should be incorporated into the Union and admitted as soon as possible as part of the territory of Orleans. Macon and his committee took this view of the matter. But when the question of passing the bill came up the debates opened in earnest, the Federalists of the House strenuously resisting the measure on constitutional and practical grounds.* No sooner did the debates begin than the Georgians began to show delicacy in regard to the rights of Spain. Because this territory was still in dispute and subject to negotiation, Troup was unwilling to include it in any State to be admitted. Bibb held the same misgivings; for he said that the President in his proclamation had declared that the right should be subject to negotiation, but if the territory now became a State all right of negotiation would be taken from the President. To prevent this danger Bibb made a motion that West Florida from the Iberville to the Perdido be annexed to the Mississippi Territory or be erected into a separate government. On the other hand, Rhea, of Tennessee, held that Congress could

not do otherwise than admit the Orleans Territory to its full extent as ceded by France according to the President's assertion. The treaty was peremptory and under it Congress was bound to annex no part of the Orleans purchase to a pre-existing territory. West Florida belonged to Louisiana and could not lawfully be annexed to Mississippi. By January 9 Macon's bill had been so radically amended that West Florida was withdrawn from its operation; but the next day, when two members asked that a government be provided for West Florida, the motions were referred by the House to the committee and there the matter rested. Hardly had the House admitted its helplessness when, on January 14, 1811, Josiah Quincy made a speech which threw the House into violent commotion. He delivered an exposition of the views of New England against the preponderating influence which the formation of Southern States would give to that portion of the confederacy and avowed sentiments and views which startled the members by their boldness. He began by saying that he was second to no man in attachment to the Constitution and the Union.

"Mr. Speaker. I address you with an anxiety and distress of mind with me wholly unprecedented. * * * To me it appears that this measure would justify a revolution in this country. * * * I am compelled to declare it as my deliberate opinion that if this bill passes, the bonds of this Union are virtually dissolved; that the States which compose it are free from their moral obligations; and that as it will be the right of

* See especially the records of the House debate in the *Annals of Congress*, 11th Congress, 3d session, pp. 482-485, 493-507, 512-514, 516, 518-542; Benton, *Abridgment*, vol. iv., pp. 321-335.

all, so it will be the duty of some, to prepare definitely for a separation — amicably if they can, violently if they must.”

At the close of his speech Quincy thus expressed himself:

“New states are intended to be formed beyond the Mississippi. There is no limit to men's imaginations on this subject, short of California and Columbia River. When I said that the bill would justify a revolution and would produce it, I spoke of its principles and its practical consequences. To this principle and those consequences, I would call the attention of this House and nation. If it be about to introduce a condition of things absolutely insupportable, it becomes wise and honest men to anticipate the evil; and to warn and prepare the people against the event. I have no hesitation on the subject. The extension of this principle to the states contemplated beyond the Mississippi, cannot, will not, and ought not to be borne. And the sooner the people contemplate the unavoidable result, the better; the more likely that convulsions may be prevented; the more hope that the evils may be palliated or removed. * * * I oppose this bill from no animosity to the people of New Orleans; but from the deep conviction, that it contains a principle incompatible with the liberties and safety of my country. I have no concealment of my opinion. The bill, if it passes, is a death-blow to the Constitution. It may, afterwards, linger; but lingering, its fate will, at no very distant period, be consummated.” †

In reply, Quincy was told that the bill was perfectly constitutional; that under the fourth article of the Constitution, Congress had power to dispose of National territory; that this power presupposed power to hold it, and the combined power to hold and dispose of territory presupposed power to acquire it either by conquest

or by purchase under the treaty powers. Louisiana had been acquired by treaty, one of the provisions of the treaty being that the State was to be admitted as soon as possible; and as treaties were the supreme law of the land, they must be obeyed. When at last (January 15, 1811) the vote was taken the bill was passed by 77 yeas to 36 nays* and signed by the President on February 20, 1811.† The boundaries were fixed as the Sabine from its mouth to the 32d° of north latitude, thence north to the 33d°, thence eastward to the Mississippi, down the Mississippi to the Iberville, through the middle of the Iberville and Lakes Maurepas and Pontchartrain to the Gulf of Mexico, and thence to the starting point.‡ All free white male citizens of the United States twenty-one years of age, dwelling within these boundaries and paying a parish tax, were to choose delegates on the third Monday in September to a convention which was to meet on the third Monday in November to frame a Constitution. It was enjoined that the State constitution must be republican in form, must secure to each citizen the privilege of the writ of *habeas corpus* and the right of trial by jury in all criminal

* *Annals of Congress*, p. 577.

† *United States Statutes-at-Large*, vol. ii., p. 641; Phelps, *Louisiana*, p. 250; Adams, *United States*, vol. v., p. 326; McMaster, vol. iii., p. 378. The text of the enabling act is in *Annals of Congress*, 11th Congress, 3d session, pp. 1326-1328; Thorpe, *Federal and State Constitutions*, vol. iii., pp. 1376-1378.

‡ Ogg, *Opening of the Mississippi*, p. 651.

* *Annals of Congress*, 11th Congress, 3d session, pp. 524-525. See also Johnston, *American Orations*, vol. i., p. 180.

† *Annals of Congress*, 11th Congress, 3d session, pp. 541-542. See also McMaster, vol. iii., pp. 377-378; Schouler, *United States*, vol. ii., pp. 348-349; Ogg, *Opening of the Mississippi*, pp. 648-649.

cases, and must contain the fundamental principles of civil and religious liberty. It was required also that the convention, in the name of the new State, must renounce all claims to waste and unappropriated land; must promise that on all lands sold by the United States no State, county, or parish tax should be levied until five years had passed after the date of sale, and that the lands owned by non-residents should not be taxed higher than the lands owned by residents; and must declare that the navigable waters of the State should be open to every citizen of the United States without tax, duty, impost, or toll of any kind. On the other hand, the United States promised to expend in building roads and levees five per cent. of the net proceeds of land sales after January 1, 1812.*

The constitutional convention assembled at the city of New Orleans in November of 1811 and completed its labors in January of 1812. The Constitution then framed was adopted January 28.† Chambers says:

"Of this Constitution it may be said that it was very far from being a purely Democratic institution. It embodied to a certain extent that distrust of the people's fitness to govern themselves that had always caused friction. It prescribed property qualifications for candidates for office which greatly limited political aspirations. To be eligible, a member of the Legislature had to own real estate to the amount of five hundred dollars. In the case of the governor it was five

thousand dollars. The people were permitted to go through the form of voting for governor but the Legislature had the power to defeat the popular choice, the methods of procedure being as follows: Any number of candidates could be voted for in the general election. On the second day of the general assembly the members of the two Houses met in the House of Representatives and balloted for choice of the two candidates who had received the largest number of popular votes. The one of the two receiving the largest number of legislative ballots was declared governor. Thus a candidate acceptable to only a minority of the people could, by the action of the Legislature, be made governor contrary to the wishes of the majority."*

Nevertheless, Congress gave its approval and on April 8, 1812, the act admitting Louisiana to the Union was approved by the President.† Representatives of the Eastern States once more protested against admitting the new Territory without consulting the States themselves. But Congress answered this by an act (approved April 14) which was still more open to question. Acting on the principle that West Florida, which had been seized because it was a part of Louisiana, should be treated as conquered territory, Congress passed an act dividing the district of West Florida into two halves at the Pearl River and annexing the western half (the Baton Rouge district of the old province lying north of Lake Pontchartrain) to the new State of Louisiana and incorporating the eastern portion in the

* Henry E. Chambers, *The Territory of Orleans, in The South in the Building of the Nation*, vol. iii., pp. 110-111.

† The act will be found in *Annals of Congress*, 12th Congress, 1st session, pp. 2264-2266; Thorpe, *Federal and State Constitutions*, vol. iii., pp. 1378-1380.

* McMaster, vol. iii., pp. 378-379; vol. v., pp. 408-411.

† Phelps, *Louisiana*, p. 250. The text of the Constitution will be found in Thorpe, *Federal and State Constitutions*, vol. iii., pp. 1380-1392.

Mississippi Territory by an act approved May 14, 1812.*

Meanwhile, under the authority of the secret act of Congress of January 15, 1811, Madison had appointed George Matthews and John McKee commissioners to take possession of Mobile and Fernandina under certain circumstances. Their written instructions were somewhat loose.† The purpose of the United States was to take possession of East Florida and to hold it lest some foreign power should seize it in the turbulent condition of the Spanish monarchy, though the country was to be returned to Spain at some future time. In general, Matthews and McKee were instructed to take peaceful possession of East Florida, in case the Spanish authorities or the existing local authority should wish it and would sur-

render it, or forcible possession if they had reason to suspect the approach of a foreign power; but their conduct was to be regulated by the dictates of their own judgments on a close view and accurate knowledge of the precise state of things there and of the real disposition of the Spanish government.* Upon his arrival at St. Mary's, a town on the American side of the boundary line, Matthews found a state of affairs which seemed to justify immediate possession on the principle of self-preservation. The St. Mary's River was filled with British vessels engaged in smuggling British merchandise into the United States, in violation of the Non-importation Act, while Amelia Island (off the Florida coast near the mouth of the St. Mary's River) was a smuggling depot, and Fernandina (a Spanish town on the Island) was the headquarters for an extensive illicit trade. The authority of Spain was but an empty form, useful though it were for the protection of illicit trade.†

Matthews then set about his work and opened negotiations with the local authorities; but, after six months of inquiry, he came to the conclusion that peaceful possession of the Island was not to be obtained, for the profits of the smuggling trade were too great to be surrendered willingly. On August 3, 1811, therefore, he wrote to Secretary Monroe saying that the

* *United States Statutes-at-Large*, vol. ii., pp. 701, 708; Adams, *United States*, vol. vi., pp. 235-236; Thorpe, *Federal and State Constitutions*, vol. iii., p. 1380. On the territory of Orleans in general, see Henry E. Chambers, *West Florida and Its Relation to the Historical Cartography of the United States*, in *J. H. C. Studies*, series xvi., no. v. (1898); H. L. Favrot, *Organization of the Louisiana Government*, in *Biographical and Historical Memoirs of Louisiana*, vol. ii., chap. iv.; Gayarré, *History of Louisiana*, vol. iv.; James K. Hosmer, *History of the Louisiana Purchase*, chap. x.; Henry E. Chambers, *Louisiana: A Sketch in Outline of Its Past and Present*, chaps. xv.-xvi.; Grace King, *New Orleans, the Place and the People*, chap. ix.; Maurice Thompson, *The Story of Louisiana*, chap. vii.; Alcée Fortier, *History of Louisiana*; Martin, *History of Louisiana from the Earliest Period*; Albert Phelps, *Louisiana, a Record of Expansion*.

† *American State Papers, Foreign Relations*, vol. iii., pp. 571-572. See also *Annals of Congress*, 11th Congress, 3d session, p. 1117 *et seq.*; 12th Congress, 1st session, p. 1518 *et seq.*

* Fuller, *The Purchase of Florida*, pp. 190-191.

† McMaster, vol. iii., pp. 536-537; Fuller, *The Purchase of Florida*, p. 191.

quiet possession of East Florida could not be obtained; that the inhabitants were ripe for revolt, but were incompetent to effect a thorough revolution without external aid; and that 200 stand of arms and 50 horsemen's swords should be sent them. He could put these arms into the hands of the revolutionists by having them consigned to the commanding officer where he was, subject to his order. He would use the most discreet management to prevent the United States being committed.* On October 14 Matthews wrote to Senator William H. Crawford, of Georgia, explaining his plans and wishes, and requesting him to explain them to the government. These views were communicated by Crawford to the President, who during six months offered no objection, but waited in silence for Matthews to effect the revolution. As no objection was made, Matthews assumed that silence gave consent and organized the revolution.† As agents, he selected the postmaster at St. Mary's the United States deputy-marshal, and a well-known Spanish subject named John H. McIntosh. During the course of the winter and spring some 200 self-styled insurgents were collected and armed, and on March 16, 1812, this band crossed the St. Mary's, landed on Amelia Island, and summoned the garrison to sur-

render. The summons (sent to Don Justo Lopez, who commanded the ten Spanish troops at Fernandina) stated that the inhabitants of the province had been induced by the determination of the United States to take possession of East Florida to do it for themselves. Accordingly, under the patronage of the United States, they had taken possession of the country from St. Mary's River to St. John's, and now demanded the surrender of Fernandina.*

Simultaneously with the landing of the troops on Amelia Island, nine United States gunboats under command of Hugh Campbell took a position to watch the movement. It was the duty of the boats under Campbell to stop the smuggling and enforce the Non-importation act. Lopez therefore sent two messengers to Campbell to inquire if the American gunboats meant to assist the insurgents. At the same time two other messengers were dispatched with a note of similar purport to Major Laval, in command of the United States troops at Point Peter. In reply to the Spanish note, Campbell referred the whole matter to General Matthews; but Laval said that he had received no orders to assist the patriots.† At this very moment General Matthews was in the camp engaged in enticing the troops to join the patriots. The messengers therefore interviewed Matthews, plainly told him that the so-called

* See his letter quoted in Adams, *United States*, vol. vi., p. 239; Babcock, *Rise of American Nationality*, pp. 28-29.

† Fuller, *The Purchase of Florida*, pp. 191-192.

* Fuller, p. 193.

† *Ibid.*, p. 194.

patriots were Americans brought into Florida under his promise that if the revolution were successful 500 acres of land would be given to each, and that Spain would regard the affair as an American invasion of her territory. The messengers then went to the camp of the patriots, assured McIntosh that under no circumstances would Lopez surrender to him, but that he was willing to treat with the United States. A conference between the parties at the patriot camp on Belle River the next day accomplished little, and the messengers returned to Amelia Island to find that the gunboats under Campbell had dropped down the river from St. Mary's and had taken position before the town. The patriots then came down the river in boats, and as Lopez had not sufficient men to withstand an attack, he capitulated. McIntosh then hauled down the Spanish flag and ran up the flag of the patriots. One of the articles of capitulation declared that twenty-four hours after the surrender the Island should be turned over to the United States, but should be exempt from the Non-importation Act. This was done, and on March 18, 1812, United States troops were in possession of Fernandina and the American flag was flying over the fort.*

Matthews thought the government would sustain him in the measures he had taken, but on April 4 Monroe

wrote him a note disavowing the seizure of Amelia Island and stating that he should have followed the precedent of Baton Rouge, where the United States did not take possession until after the Spanish authority had been subverted by a revolutionary proceeding and the contingency of the country being thrown into foreign hands had forced itself into view.* On the 10th Monroe wrote to Governor David V. Mitchell, of Georgia, requesting him to take Matthews' place.† Governor Mitchell was instructed to withdraw the troops and to restore Amelia Island to the Spanish authorities, if on reaching St. Mary's he should see no prospect of foreign occupation. He was to take care that the revolutionists did not suffer at the hands of the Spanish government. When he arrived at St. Mary's, Mitchell found the situation more serious than ever. The patriots were not disposed to retire, and at a meeting held in the camp before St. Augustine they avowed their purpose to fight until independence was secured, calling for 500 more troops, and promising to pay them in lieu of money with such land or property as might be taken from the Spanish. Before the new troops could be enlisted, however, a schooner was armed by the Spanish and sent up the creek to shell Camp Moosa, near St. Augustine, where the

* Fuller, *The Purchase of Florida*, pp. 194-195; McMaster, vol. iii., pp. 538-539; Chadwick, *Relations of the United States and Spain*, p. 115.

* *American State Papers, Foreign Relations*, vol. iii., p. 572. See also Madison's *Works* (Congress ed.), vol. ii., p. 534.

† *American State Papers, Foreign Relations*, vol. iii., p. 572.

army had encamped. This forced the patriots to fall back to Pass Navarro on May 17, and then to St. John's. Becoming alarmed, Mitchell sent to Savannah for aid, and early in June the Republican Blues and the Savannah Volunteer Guard were on their way to St. Mary's. Shortly after their arrival news was received of the declaration of war, and 17 English ships were seized, together with a great quantity of floating timber cut for the use of the English navy.*

As Mitchell had failed to restore Amelia Island to the Spanish, Troup, of Georgia, introduced a measure on June 19 respecting the matter. The President was authorized not to withdraw the troops, but to extend his possession over the whole country of East and West Florida and to establish a government there. The House passed the bill on June 25 by a vote of 70 to 48, but on July 3 the measure

was defeated in the Senate by a vote of 16 to 14.* Nevertheless, after the failure of the bill the President continued to hold Fernandina with no other authority than the secret act upon which Matthews had taken possession of Fernandina.† Long before this, however, the fate of West Florida had been settled by Congress. By the act of April 14, 1812, that territory south of the 31st and between the Pearl and Mississippi rivers was added to the former territory of Orleans, but which had now become the State of Louisiana. That section of the country lying between the Perdido and the Pearl was annexed to Mississippi Territory by the act of May 14. This was in effect a declaration of war, for at the time Madison signed the act the Spanish flag was flying at Mobile and the country was occupied by Spanish soldiers.‡

* *Annals of Congress*, 12th Congress, 1st session, pt. i., p. 326.

† Adams, *United States*, vol. vi., p. 243.

‡ Fuller, *The Purchase of Florida*, p. 199.

* McMaster, vol. iii., pp. 539-540; Fuller, *The Purchase of Florida*, pp. 195-197.

CHAPTER XIII.

1811-1812.

THE FUTILE STRUGGLE FOR PEACE.

Effect of the Embargo — Enactment of stay laws — Triumph of the Republicans in Massachusetts — Attempts to evade the Embargo — Trouble with the Indians — Attempt of Tecumseh and the Prophet to form an Indian confederacy — Cessions of territory by the Indians — Tecumseh's protest — Harrison's campaign against the Indians — The battle of Tippecanoe — Reparation by England for *Chesapeake* outrage — Convening of Congress — Madison's message — Debate on bills to increase army and navy — Debate on financial measures — Submission of the Henry letters to Congress — Passage of the Embargo Act — Its effect on the Massachusetts elections — The Gerrymander — Failure of the loan — Petitions for the repeal of the Embargo — Madison's War Message — Report of the committee — Passage of the act declaring war — Other acts of Congress — Repeal of the Orders in Council.

As the newspapers copied the President's proclamation convening Congress in November, the belief prevailed that war was imminent and that the country was to prepare for it. The commercial independence of Europe had not been won without great cost; the fine things the Embargo was to produce in the future were forgotten in the present distress produced by it. If ruin had been the end and aim of the law, a better time for its application could not have been chosen. Never had crops been so large and their movement to the seaboard so steady. Even after the Non-intercourse Act had gone into effect their shipments continued, for the merchants had determined to evade it. Suddenly, however, without a moment's warning, the Embargo had been put into effect and the Secretary of the Treasury had sent orders to the collectors of the ports to stop all vessels bound for foreign ports. In

January the coasting trade had been restricted and paralysis seems to have seized on the business of the coast towns: ships were dismantled, crews were discharged, the sail-lofts were deserted, the rope-walks were closed, no wages were earned, and money almost ceased to circulate.

Unable to bear the strain, thousands of farmers and individuals went into bankruptcy; the newspapers were filled with insolvent debtor notices, while advertisements of sheriffs' sales could be seen everywhere. Jails were not large enough to hold the debtors; at New York during 1809 nearly 1,300 men were imprisoned for debts caused by the Embargo. While the debtors in the North were thrown into jail, the planters of the Southern States were saved from immediate ruin by stay laws, in spite of the fact that the Federal Constitution forbids the States to pass laws impairing the obligations of contracts. Five months

after the Embargo was laid, Georgia directed her courts and justices of the peace to issue no executions and her sheriffs to sell no property levied on in case the defendant gave security for the judgment and the costs. This law was to expire on December 25, 1808, but on that date the debtors secured the passage of another law extending the time of grace one year by paying one-third of the judgment and one-third of the costs and giving security for the rest. So long as the Embargo continued, and a few months after its repeal, the Maryland courts could not issue a judgment against the body, goods, chattels, lands, or tenements of Maryland citizens. In Virginia the replevin law of 1793 was revived with amendments, to remain in force until thirty days after the Embargo was lifted. Before that time had arrived, however, this law was replaced by another, which was not to expire before 1810. In Tennessee a defendant could stay writs by offering security for the delivery of the goods seized whenever wanted. North Carolina debtors could stay proceedings against them if security for the debt were given by two freeholders. In Ohio property about to be seized was to be appraised by three men; it was then to be advertised by the sheriff, and if no bidder offered one-half the appraised value, the property was to be returned to the owner and the execution stayed one year. In Pennsylvania the people petitioned the Legislature to enact a law

staying suits for debt and stopping the distress and sale of property, but the Legislature could see no need for such a law and ignored the petition.*

The war fever had now swept over the country; the bitter hatred of England had increased until it became a blinding passion, warping the judgment and overpowering the reason. The older Republicans still had faith in peaceable measures and expected much from the Eleventh Congress. But when that body dispersed, all hope was gone and the war cry went up in every Republican district. The constituency of the party had changed greatly, the younger element now being in control. To them it seemed the height of folly that commerce should be stagnant, that agriculture should be ruined, and that bankruptcy should prevail, merely because it was not good Democratic doctrine to have a standing army, a navy, and taxes. In many of the States the young men were already in control, and in the election for the Twelfth Congress they swept the country. Of the 142 men who sat in the Eleventh Congress but 81 were returned to the Twelfth. Of the most prominent men a generation later many were less than forty years of age at the time of the Twelfth Congress, among them Henry Clay, John C. Calhoun, Richard Mentor Johnson, Felix Grundy, Langdon Cheves, George M. Troup, and Peter B. Porter.†

* McMaster, vol. iii., pp. 415-417.

† Schurz, *Life of Clay*, vol. i., p. 77 et seq.

The course of Massachusetts had much to do with the changed current of public opinion. The Republicans in Massachusetts had elected their candidate for governor several times by majorities more or less decisive, but they never controlled the State Senate. In the spring of 1811 a governor and a General Court were to be elected and a Senator was to be appointed to take the place of Timothy Pickering. The Federalists nominated Christopher Gore and the Republicans Elbridge Gerry for the governorship. No party platforms were drawn up, resolutions adopted at county meetings and at town meetings in the great cities being used instead.

On the Sunday night before election (March 30) a great Federalist meeting was held at Faneuil Hall and attended by more than 5,000 people. After a number of speeches, a long series of resolutions was adopted condemning the late conduct of the government. The act of March was pronounced unjust, oppressive, and tyrannical; it tended to ruin and impoverish hosts of citizens (the indictment continued) and the only thing short of an appeal to force that could prevent such a calamity was the election of men to the various State offices who would oppose by peaceable but firm means the execution of laws which must be resisted.* The tone

of this was not new to New England. A year after the election Gerry undertook to answer the resolutions in detail. The Federalist press answered him and the Republican newspapers replied, but there was no need of this, as the people had answered the charge themselves by their overwhelming defeat of the Federalists. Gerry was elected governor by 3,000 majority, the Assembly was Republican by a majority of 22, and for the first time the Republicans controlled the State Senate, though only by one vote. Timothy Pickering, losing his seat in the United States Senate, the Republicans sent Joseph B. Varnum to take his place.* These successes inspired the Republicans with unusual confidence, and left the Federalists powerless.

The spring election, however, did not end the excitement in New England. As the summer advanced, the distress caused by the Plundering Act (as the Federalists named the Non-importation law) threatened to entail serious consequences. Many ships, seized for attempting to evade the law, had suffered severe penalties. One of these, the *Lothair*, had sailed from Liverpool for Boston on February 15, before the Non-importation Act had passed. Under civilized usage, she ought to have been exempt, but by the orders contained in Gallatin's circular she was subject to the law and incurred the fines and

* Theodore D. Jervcy, *Robert V. Hayne and His Times*, pp. 36-37; Schouler, *United States*, vol. ii., pp. 358-359; McMaster, vol. iii., pp. 420-422.

* Adams, *United States*, vol. vi., pp. 115-116; McMaster, vol. iii., pp. 422-423.

forfeitures prescribed by the fifth and sixth sections of the act of 1809. These penalties were of three kinds: first, the owner or owners of the cargo forfeited their goods and three times their value; in the second place, the owner of the vessel forfeited his ship and three times the value of the cargo; in the third place, the master of the ship was subject to a fine of three times the value of the cargo. Thus, as the ship was worth \$12,000 and the cargo \$40,000, the total loss to the owners of the cargo, the owners of the ship, and the master of the ship was over \$4,000,000. To condemn a ship and cargo that left England two weeks before the act under which she suffered had been passed was considered gross injustice. Seizures of this nature were declared infamous, but continued to be made, and by the middle of May 44 informations were advertised for trial in Boston alone.* Such seizures, on a smaller scale, took place in every port of entry on the coast.

The arrival of the British minister, Foster, seemed to presage happy results, but as the weeks passed and no news came from Washington, grave fears of a rupture were entertained by the public. Not until the *National Intelligencer* published the President's proclamation calling Congress together, however, was all hope extinguished. Foster's communications had not come up to the expectations

of the government. Furthermore, retaliation had been threatened if non-importation was persisted in. The President could do no more by himself, but must ask the aid and advice of Congress. As the autumn advanced, the Republican newspapers led by the *Aurora* and the *Intelligencer*, broke out into a general cry for war. The refusal of the British ministry to withdraw the Orders in Council, the return of Pinkney from London, the affair of the *President* and the *Little Belt*, together with the fact that the British traders in the Northwest were inciting the Indians, served but to increase the ill-temper of the public. British frigates were again blockading New York, seizing ships and impressing men, and English prize courts held that the French decrees were still in force and that American ships bound for France were good prize. Under these provocations the temper of the American press reached such a pitch that war was declared to be imminent and the conquest of Canada began to be discussed. This was brought about in part by an outbreak among the Indians in the Northwest.

The Indiana Territory had been created in 1800, William Henry Harrison being appointed governor. Until 1809 Illinois formed part of the Indian Territory, though its single settlement at Kaskaskia was remote. The Indian settlement consisted mainly of two tracts—one on the Ohio opposite Louisville, consisting

* McMaster, vol. iii., pp. 423-424.

of about 150,000 acres (called Clark's grant), and the other at Vincennes on the Wabash.* Between these two tracts lay 100 miles of wilderness. The population of the settlements had grown enormously—from about 2,500 persons in 1800 to nearly 25,000 in 1810. To the north and west of these districts the Indian countries stretched to the Lakes and to the Mississippi, unbroken save by military posts at Fort Wayne and Fort Dearborn (or Chicago) and a settlement of whites near the fortress of Detroit. In this vast region lived some 5,000 Indians, who could easily have expelled the white settlers from their territory, had they been efficiently organized.

Nothing was nearer the hearts of the western settlers, and in fact of the government officials, than a northward extension of the territory. In 1804–1805 Harrison had made treaties with the Miamis, the Eel Rivers, the Weas, the Delawares, the Piankishaws and other tribes by which was obtained a strip of country 50 miles wide between the Ohio and White rivers, thus carrying the boundary back toward the Wabash.† These treaties, threatening the Indians with the loss of their hunting grounds in the Wabash Valley, caused discontent among the Indians which presaged trouble. Early in 1806 Harrison learned that

a Shawnee Indian, claiming to be a prophet, had gathered a number of warriors at Greenville, Ohio, and was preaching doctrines likely to cause trouble. Harrison attributed the mischief to Olliwachiea, the Open-door (better known as the Prophet), but he learned later that the movement derived its chief strength from Tecumseh (or Tecumthe), the Crouching Panther.* The Prophet was a cunning imposter, and, claiming to have supernatural powers, assumed the rôle of both medicine man and prophet. Tecumseh was bold, daring and energetic, an orator of no mean ability, a hater of the whites, skillful in war and wise in counsel, possessing, moreover, supreme self-command, a wide knowledge of men, and a wonderful ability to handle them. Though they were not chiefs of their tribe and had no authority of office by birth, the two brothers exercised a powerful influence throughout the Indian tribes of the Northwest. Dreaming of an Indian empire in the West such as that to which Pontiac had aspired, the two brothers set out to form every Indian tribe from Canada to Florida into a confederacy. As Gen-

* The first name as given above is as given by McMaster, vol. iii., p. 529, but Schouler (vol. ii., p. 67) gives it as Elkswatawa, as does also Lossing (*Field-Book of the War of 1812*, p. 188), while F. W. Hodge, of Smithsonian Institution in the article on *Shawnee Indians* in *Encyclopedia Americana* (vol. xiv.) gives it Tenkswatawa. See also Drake, *Life of Tecumseh and of his Brother the Prophet* (1841). Lossing says that the Prophet took the name of Pemsquatawah, or "Open Door" in 1805.

* Montgomery, *Life of Harrison*, pp. 69–70.

† Slocum, *The Ohio Country*, pp. 164–165. For text, see *American State Papers, Indian Affairs*, vol. i., pp. 687–690, 693–699, 704–705.

eral Brock said: "A more sagacious or a more gallant warrior does not, I believe, exist."*

The brothers were aided in this project by two events which happened in 1807. One was the *Chesapeake* affair, which led the Governor-General of Canada to intrigue among the Indians for aid in case of war; the other was a treaty of cession negotiated by Hull at Detroit on November 17, 1807, which actually accomplished what the Governor-General attempted.† In their rage, the Indians openly talked of killing the chiefs who signed it. The northern Indians then joined Tecumseh's league, and in 1808 Tecumseh and his brother, the Prophet, took up their abode on the banks of the Upper Wabash, near the mouth of the Tippecanoe at a spot belonging to the Miamis and Delawares, which they occupied without the consent of these Indians.‡ Here the two were joined by the Northern Indians from the Lakes and Upper Mississippi, and by Indians from other

neighboring tribes moved by curiosity or religious interest; and here Tecumseh found opportunity to broach his plan of an Indian confederation.

The people of the Northwest wanted the Wabash lands even at the risk of war. Up to this time only a small portion of the lands owned by the Indians had been surrendered; and, as no immediate outbreak was to be feared and as the settlement at Tippecanoe was supposed to contain not more than 100 warriors (with perhaps 400 or 500 within a radius of 50 miles), Harrison thought a favorable opportunity to extend the boundary from the White River to the Wabash had come.* Therefore he secured permission from Secretary Eustis to make a purchase of lands from the Indians.† He then called together the chiefs of the tribes who claimed the territory (the Miamis, the Delawares, the Potawatamies, and the Eel Rivers) and on September 30, 1809, signed a treaty of cession at Fort Wayne.‡ By this treaty two large tracts of land were ceded. One adjoined the Vincennes cession and was bounded on the north by a line drawn from the mouth of Big Raccoon Creek on the Wabash to a point ten miles above Brownstown on the east fork of White River. The treaty provided that this tract should

* Tupper, *Life of Brock*, p. 253. See also Richardson, *War of 1812*, p. 154. Cf. Drake, *Life of Tecumseh*, chaps. v.-vi.; Peter D. Clarke, *Origin and Traditional History of the Wyandots, and Tecumseh and his League* (Toronto, 1870). Tecumseh's speeches will be found in Moore, *American Eloquence*, vol. ii., p. 325 *et seq.*

† Slocum, *The Ohio Country*, pp. 168-171. For text, see *American State Papers, Indian Affairs*, vol. i., p. 747. In Jefferson's message of January 15, 1808, the date of this treaty is given as November 17, but in the text of the treaty the date is the 7th. In the treaty of Brownsville, however, November 25, 1808, the treaty is referred to as being of November 17. Cf. *ibid.*, p. 757.

‡ Schouler, *United States*, vol. ii., p. 368; Lossing, *Field-Book of the War of 1812*, p. 190.

* Dawson, *Life of Harrison*, p. 129.

† *American State Papers, Indian Affairs*, vol. i., p. 761.

‡ *Ibid.*, pp. 761-762.

be 30 miles wide at its narrowest point. The other tract (known as the 12-mile purchase) lay west of and parallel to the Greenville treaty-line and was 12 miles in width.* On December 9, 1809, Harrison secured also a cession from the Kickapoos of a strip of Indiana west of the Wabash and below the Vermillion;† and thus the Indian title to about 3,000,000 acres was extinguished.‡

Harrison knew that this transaction would make every Indian in the territory despair, for the Wabash Valley alone still contained game, and the Indians living there, deprived of their last resource, must fall back to perish in the country of the Chippewas and the Sioux, their enemies. The Embargo and the decrees of France and England had helped to impoverish the Indians, who thereby lost the market for their peltry and

became too poor to buy powder and shot to kill game.* Thenceforward the Indians had no choice but to depend on British charity. Harrison's treaty resulted in greatly strengthening the influence of Tecumseh and the Prophet. Shortly after the treaty was consummated, the Wyandots, regarded as the most influential of the Indian tribes in the territory, joined Tecumseh's confederacy and united in a declaration that the cession was void and that the tribes would not recognize it.† The British traders were undoubtedly responsible for the quiet that prevailed during the winter and spring of 1809-1810, for they assured Tecumseh that the United States and England would soon be at war and urged him to await the signal from Canada.‡ Reports from various places in the territory indicated that trouble was not far off.¶ There were gatherings at the Prophet's town, the British traders were supplying arms to the Indians,§ and

* Dunn, *Indiana*, pp. 380-381. The consideration was \$8,200 cash and an annuity of \$2,350 in the aggregate (Lossing, *Field-Book of the War of 1812*, p. 190). Slocum (*The Ohio Country*, pp. 178-179) gives the annuity as \$500 each to the Delawares, Pottawattamies and Miamis, and \$250 to the Eel Rivers, and says that domestic animals to the value of \$500 were to be given to the Miamis for this and the two following years. A separate agreement was made with the Weas by which they were given \$1,500 cash and a permanent annuity of \$100. The cash consideration in the treaty of September 30 was \$5,200.

† *American State Papers, Indian Affairs*, vol. i., pp. 762-763; Dunn, *Indiana*, p. 281. By this treaty the Kickapoos were to receive goods to the value of \$800 and a permanent annuity of \$400. The Miamis were to receive a further annuity of \$200 and the Eel River tribes \$100 each. (Slocum, *The Ohio Country*, p. 179.)

‡ McMaster, vol. iii., pp. 529-531; Adams, *United States*, vol. vi., pp. 82-83.

* Dawson, *Life of Harrison*, p. 142.

† Montgomery, *Life of Harrison*, p. 79.

‡ As to British instigation of Tecumseh's plot, see the statements in Campbell, *Outlines of Political History of Michigan*, p. 257; William S. Hatch, *A Chapter of the War of 1812*, p. 102; Eggleston, *Life of Tecumseh*, pp. 91-92, 126-127; Drake, *Life of Black Hawk*, pp. 62-63.

¶ See the quotations from letters in Slocum, *The Ohio Country*, pp. 182-186.

§ See the reports and letters of governors, citizens and others in *American State Papers, Indian Affairs*, vol. i., pp. 797-804; Foster's letter to Monroe, in June of 1812, in *American State Papers, Foreign Relations*, vol. iii., p. 462. Harrison said: "All their peltries collected on the Wabash in one year, if sold in the London markets, would not pay the freight of the goods which have been given to the Indians."—Farmer, *History of Detroit and Michigan*, p. 273.

when the salt (part of the usual annuity) arrived at Tippecanoe, Tecumseh refused to accept it, driving off the boatmen who attempted to deliver it.*

Thinking it best to ascertain Tecumseh's intentions, Harrison sent for him. On August 2, 1810, the Indian chief, accompanied by about 400 Indians fully armed, came for a conference to Vincennes.† He made an eloquent appeal to Harrison to return the lands, to cancel the treaty, and to enter into an agreement never to purchase land hereafter without the consent of all the tribes.‡ He finally accused the United States of cheating and imposing upon the Indians and said that unless such an agreement were made, the Indians would resist with force any attempt to take possession of the newly purchased land and would ally themselves with England in her war with the States.¶ Harrison assured the Indian that his request would find little favor with the government and both began to prepare for the inevitable conflict. As the Secretary of War directed Harrison to suspend the military occupation of the purchase, the winter of 1810-1811 passed without serious disturbance.

In the spring of 1811, however, the frontier inhabitants became seriously

alarmed at the Indian outrages, which seemed to be on the increase. The Indians began to roam in marauding parties over the Indian region, stealing what they could and plundering the homes of the white settlers and frontier Indians.* On February 6, 1811, Harrison sent word to the Secretary of War that British agents were again tampering with the tribes. On February 6 Captain Johnson, commanding at Fort Wayne, recommended that a garrison be established on the Wabash near the Prophet's town,† and on May 13 and 24 word came from Chicago and St. Louis of hostile "talks" and meetings under the influence of the Prophet. In June the Prophet, while on his way up the Wabash, seized five barrels of salt intended for the Northwestern tribes. Aroused by this act, Harrison on June 24 sent a letter or speech to Tecumseh and the Prophet intended to force an issue.‡

On July 27, therefore, Tecumseh with 300 warriors went to Vincennes to talk over the situation. He renewed his inadmissible claims and protested that his intentions were friendly, but two days afterward left the town with 20 warriors to persuade the Creeks, Choctaws, and Chickasaws of the South to join his confederacy.¶

* Schouler, *United States*, vol. ii., p. 369; Lossing, *War of 1812*, p. 193.

† Slocum, *The Ohio Country*, p. 186.

‡ Dawson, *Life of Harrison*, p. 129.

¶ See Harrison's report in Slocum, *The Ohio Country*, pp. 187-188; McMaster, vol. iii., p. 532; Schouler, vol. ii., p. 369; Adams, *United States*, vol. vi., pp. 91-92.

* Lossing, *Field-Book of the War of 1812*, p. 191.

† Lossing, *Field-Book of the War of 1812*, p. 191.

‡ Montgomery, *Life of Harrison*, p. 80.

¶ Adams, *United States*, vol. vi., pp. 86-87; Schouler, *United States*, vol. ii., pp. 368-369.

The whole frontier was now alarmed and hardly was Tecumseh out of sight when, on July 31, a number of people met at Vincennes, adopted resolutions characterizing the actions of the Indians as part of the British plot, denouncing a temporizing policy, endorsing the promptness of Harrison, and calling for the suppression of Tecumseh and the breaking up of the settlement of Tippecanoe. Petitions were sent also by the people of Illinois for forts and block-houses and requests that troops be rushed to the frontier.* To satisfy the western people, Harrison thereupon began to raise forces for an expedition. No doubt existed in the minds of the westerners that Harrison meant to attack the Indians of Tippecanoe, and the Kentuckians became eager to share in the expedition. Among these Kentuckians was Joseph H. Daviess, Aaron Burr's prosecutor, who on August 24 wrote to Harrison offering himself as a volunteer.† Harrison accepted his services and gave him command of a body of dragoons consisting of about 130 men from Indiana and Kentucky. In September the 4th Regiment of United States infantry, under command of Colonel John P. Boyd, arrived on the frontier, and as rapidly as the forces were collected Harrison sent them up the Wabash to form a camp, build a fort,

and take formal possession of the new purchase. On October 6 Harrison joined the army of about 900 men at the camp, 65 miles above Vincennes. On the night of October 10, while the soldiers were at work erecting the fort, one of the sentinels was fired on and wounded.* Assuming that an Indian had fired the shot, Harrison regarded this as the beginning of the war and decided to act as if war had actually been declared.

Although according to his report to Secretary of War Eustis, Harrison's effectives numbered 910, he thought his force too small and sent back to Vincennes for more troops. On the 28th he broke up the camp at the fort, and the army began its march up the river.† On October 29 he sent three friendly Indians to the Prophet with a message requesting that the Pottawattamies, Kickapoos, and Winnebagoes at Tippecanoe return to their tribes, that all murderers be surrendered, and that stolen horses be given up.‡ The army then marched to the mouth of the Vermilion River, where they erected a block-house to protect their post. This river was the extreme boundary of the land-purchase, where Harrison had no right to go with troops unless he meant war. But he did mean to fight; on November 3 the army resumed its march across the Vermilion, arriving unmolested on the eve-

* *American State Papers, Indian Affairs*, vol. i., pp. 803-804.

† Dawson, *Life of Harrison*, p. 200; Montgomery, *Life of Harrison*, p. 90.

* Lossing, *War of 1812*, p. 195.

† Montgomery, *Life of Harrison*, p. 91.

‡ Lossing, *War of 1812*, p. 195.

ning of November 5 at a point about 11 miles from the Prophet's town.* The next day the army advanced toward the town and soon reached an open plain a mile and one-half from Tippecanoe. There he halted and decided to encamp. Daviess and the other officers protested and urged him to attack the town at once. As the officers grew urgent, Harrison yielded, ordering an advance with the intention to attack.† The troops had advanced about 400 yards when three Indians sent by the Prophet came to meet them with peaceful messages, urging that hostilities be avoided if possible. Harrison agreed not to attack them and said he would encamp at the Wabash and in the morning, in an interview with the Prophet and his chiefs, he would explain the object of the visit.‡

Having decided to wait, Harrison ordered a forward movement to choose a place for encampment. The Americans had come within 150 yards of the town when the Indians, becoming alarmed, called upon them to stop. Harrison halted his men and requested the Indians to show him a place suitable for his purpose, which they did.¶ The place selected was less than a mile to the northwest of the town. Next to the town was a

marshy prairie, beyond which the ground rose ten feet to a level covered with oaks; about 100 yards farther on it dropped to a creek with banks overgrown with willow and dense brushwood.* A spot better suited for Indian warfare could not have been selected. Nevertheless Harrison decided to encamp there, arranging his troops in the form of a triangle, to suit the shape of the high land.† On the front was a battalion of United States infantry under Major George R. C. Floyd, flanked by Indiana militia under Colonel Joseph Bartholomew. In the rear was a battalion of United States infantry under Captain Robert C. Barton, supported by four companies of Indiana militia under Captain Josiah Snelling, Jr., John Posey, Thomas Scott, and Jacob Warrick, the whole under command of Lieutenant-Colonel Luke Decker. The right flank was composed of mounted riflemen under Captain Spear Spencer; and the left of the same under Major-General Samuel Wells, commanding as major and led by Colonels Frederick Geiger and David Robb as captains. In the rear of the front line near the left flank were two troops of dragoons under Daviess, while at right angles with these, in the rear of the left flank was a body of cavalry under Captain Benjamin Parke.‡ Harrison pitched his

* Harrison's report of November 18, 1811, *American State Papers, Indian Affairs*, vol. i., p. 776; Lossing, *War of 1812*, p. 201.

† Harrison's report, in *American State Papers, Indian Affairs*, p. 776.

‡ *Ibid.*, p. 776.

¶ *Ibid.*, p. 777.

* Lossing, *War of 1812*, pp. 201-202.

† See the plan of the camp in Lossing, *War of 1812*, p. 205. See also Montgomery, *Life of Harrison*, pp. 92-95.

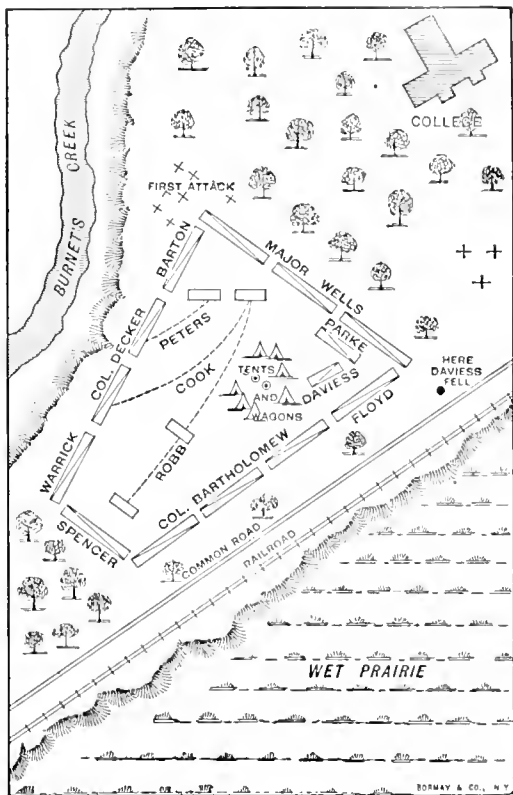
‡ *American State Papers, Indian Affairs*,



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tents, but threw up no entrenchments, and with no other protection than a single line of sentries waited for morning. During the night neither Harrison nor his sentries heard anything to arouse their suspicions. A few minutes after four o'clock on the morning of November 7 a sentinel at the farthest angle of the camp fired a shot, and in an instant the Indian yell was raised.* Before the soldiers at that end of the camp could leave their tents, the Indians pierced the line and were shooting the men by the light of the camp fires.† The firing at once became general along the entire line, save for the short space on the creek, and the battle of Tippecanoe began. Fortunately the attacking party had not strength to follow up its advantage, permitting the American line to be re-formed in the rear. Harrison rode to the point of attack and at the northeast angle met Daviess, who reported that the Indians under cover of the trees were annoying the troops under Baen, Snelling and Prescott and asked leave to dislodge them. Permission was given and Daviess, followed only by a few men, rushed forward among the trees, where he soon fell mortally wounded.‡ Mean-

while, perceiving that Barton's and Geiger's companies had suffered severely and were in a state of confusion, Harrison ordered two companies under Cook and Peters to support them. The Indians then attacked the camp on the whole front



and both flanks and a portion of the rear line, falling with great fury upon the troops under Spencer and Warrick. Spencer was killed outright and Warrick was mortally wounded but the troops held their positions without further disaster until day-break, when they charged the Indians, dislodged them from behind the trees, drove them into the swamp, and there

p. 777; H. M. Brackenridge, *History of the Late War*, p. 24; Lossing, *War of 1812*, pp. 202-203.

* *American State Papers, Indian Affairs*, vol. i., p. 777.

† Lossing, *War of 1812*, p. 204; Montgomery, *Life of Harrison*, pp. 94-95.

‡ *American State Papers, Indian Affairs*, vol. i., p. 777; Montgomery, *Life of Harrison*, pp. 96-97.

the battle ended.* The casualties on the American side were 62 killed (10 officers and 52 privates), 126 wounded (24 officers and 102 privates), making a total of 188 killed and wounded.† The loss to the Indians was 38 known dead and probably a great number wounded.‡

Harrison's position was now critical; his effective force had been diminished by more than a quarter,|| his provisions were running short, and his only base of supplies was Vincennes, 170 miles away. The Indians could return in greater numbers, whereas his own force must steadily decrease. The next night the troops remained in camp, on guard, awaiting a new attack, but no further sign of hostilities was given.§ On the morning of November 8, therefore, the dragoons and mounted riflemen set out for the Prophet's town, which, to their surprise, they found deserted. Taking such supplies as the army

needed, Harrison set fire to the village and at noon of November 9 began the march homeward.* No Indians appeared, the march was undisturbed, and, after leaving a company of the 4th Regiment at Fort Harrison, the army arrived at Vincennes on November 18.

The permanent result of Harrison's victory was not what had been expected. While he gained prestige as a leader in frontier warfare,† and while it was believed that the Indian power had been broken, that the Prophet's influence had been undermined, that the confederacy would fall to pieces, that the frontier would be saved from further alarm, and that the Indians would remain neutral in case of war with Great Britain; none of these things came to pass immediately. The Prophet did indeed lose influence and for a time the frontier was peaceful, but with the opening of the new year the frontier was again distracted by rumors of war, for in January Tecumseh had returned from his southern tour.

Leaving Vincennes in July of 1811, Tecumseh and his warriors made a long journey through the Chickasaw and Choctaw country and in October reached Tuckanbatchee, a Creek town on the Tallapoosa River. There the annual council of the Creeks was to be held, and the rumor that Tecumseh would be present brought great

* Lossing, *War of 1812*, pp. 204-206.

† *American State Papers, Indian Affairs*, vol. i., p. 779. See also McAfee, *History of the Late War in the Western Country*, pp. 22-30; Hall, *Life of Harrison*, pp. 132-146; W. S. Hatch, *A Chapter of the History of the War of 1812 in the Northwest with a Biographical Sketch of Tecumseh* (1872); McMaster, vol. iii., pp. 533-534; Schouler, vol. ii., pp. 369-370; Adams, *United States*, vol. iii., pp. 102-104; Brackenridge, *History of the Late War*, pp. 22-26; Drake, *History and Biography of the Indians of North America*, pp. 616-620; Harvey, *History of the Shawnee Indians*, chap. xxiv.; Albach, *Annals of the West*, p. 839; *Harper's Magazine*, vol. xxvii., p. 145; Dillon, *History of Indiana*, p. 467; Marshall, *History of Kentucky*, p. 491.

‡ Montgomery, *Life of Harrison*, p. 101.

|| Dawson, *Life of Harrison*, p. 233.

§ Lossing, *War of 1812*, p. 206, note.

* Lossing, p. 206.

† Dawson, *Life of Harrison*, p. 219; *American State Papers, Indian Affairs*, vol. i., p. 806.

numbers of Indians (even Cherokees and Choctaws) to the place. Tecumseh and his warriors marched into the centre of the square and took their places in silence. That night "they danced the dance of the Indians of the lakes" and some nights afterward, in the midst of a great gathering of Indians, Tecumseh delivered his talk, in which he seems to have urged peace.* In spite of this, however, war preparations went on among the younger warriors.

Having started this fanaticism in the South, Tecumseh again returned North, reaching Indiana at the beginning of 1812, when he learned of the battle of Tippecanoe. It was fully expected that he would seek vengeance, but on March 1, 1812, to his surprise, a deputation of some 80 Indians visited Vincennes and informed Harrison that the Indians had passed the winter in sending messages to the different villages to consult on their future course and that all the tribes had agreed to ask for peace. They blamed the Prophet for the affair at Tippecanoe and asked leave to send a deputation to Washington to obtain a peace with the President. To this Harrison gladly consented, knowing that the absence of an Indian delegation at Washington was a guarantee of peace. Harrison expected them to appear at Fort Wayne in April of 1812 ready for the journey, but his illusions were soon dispelled. In

April war began along the entire frontier, many white settlers being murdered.* Then a panic seized the people. The outlying population of the territory took to flight and the fugitives streamed through Vincennes on their way to Kentucky. Others abandoned their families and took refuge in such temporary forts as they were able to construct, to suffer terribly from overcrowding and lack of accommodations.† Even Vincennes was not thought to be safe; but, as the 4th Regiment had been sent to Detroit, not even a company of militia could be procured nearer than the Falls of the Ohio, and Harrison called for help in vain. Fortunately Tecumseh was not ready for war. On May 16, six weeks after the hostilities began, he appeared at Massassinway on the Wabash, between Tippecanoe and Fort Wayne, and there delivered to a grand council of the Indians a speech that was more temperate than ever.‡

Tecumseh declared that the border murders were the work of the Pottawattamies, over whom he had no control and for whom he offered no excuse. Though he continued to protest that his intentions were friendly, the western settlers were firmly convinced that he was only awaiting the

* *American State Papers, Indian Affairs*, vol. i., pp. 805-809; McMaster, vol. iii., p. 536; Adams, *United States*, vol. vi., p. 110.

† Harrison to the Secretary of War, May 6, *American State Papers, Indian Affairs*, vol. i., p. 808.

‡ Dawson, *Life of Harrison*, p. 256.

* Adams, *United States*, vol. vii., p. 221.

signal from Canada, and that the friendly Indians had been equipped against the whites out of the king's stores at Malden in Canada. Their convictions seem to be borne out by the fact that a few months later England employed the red men against the whites, not as soldiers, but "as a species of bloodhound."* This was the situation when, pursuant to the President's proclamation, the first session of the Twelfth Congress convened on November 4.

Up to this time the intentions of the President and his Cabinet had been uncertain. A very large part of the public did not believe war to be possible, supposing that Madison, Monroe, and Gallatin were aiming at a diplomatic rather than a military victory. As a matter of fact, the Cabinet had no well defined plan. When the French minister, Serurier, called on Monroe after his return from Virginia, he found him in nearly the same state of mind as before his departure on his vacation. Monroe said that, although the information received by the President during the last few months had raised his hopes, he was not convinced that the decrees had been entirely revoked, especially since he had received advices from Naples that the American prizes were to be sold. He informed Serurier that whenever the American government was satisfied as to the attitude of France, it would adopt energetic

measures toward England.* The British minister on October 30 learned from Monroe that the government was awaiting dispatches from Barlow; should these prove unsatisfactory, some restriction of French commerce would be imposed in retaliation for the restrictions imposed by Napoleon. Foster wrote to Wellesley suggesting that it would be wise for England to make some concessions and to offer reparation for the *Chesapeake* outrage. On November 1 Foster wrote to Monroe renewing the disavowal of Berkeley's unauthorized act and offering to restore the men and to compensate the families of the victims. Monroe coldly accepted the offer; the two surviving seamen were in due time restored to the *Chesapeake* and redress was made as complete as tardy justice could make it, but the time had passed when the wrong could be atoned for.†

The new Congress was far different from any previous one, not only for its large number of new members, but for the youthfulness of its active leaders, who cared little for statesmanship, but, bent on war with England, were willing to face debt and probable bankruptcy if they could create a nation, conquer Canada, and carry the American flag to Mobile and Key West. They were statesmen of conquest, not pleaders of self-preservation.

* See Serurier's report of October 23, 1811, quoted in Adams, *United States*, vol. vi., pp. 120-121.

† *American State Papers, Foreign Relations*, vol. iii., p. 499.

* Schouler, *United States*, vol. ii., p. 370, note.

tion. Bold, defiant, aggressive, they were disciples of militant patriotism. The spirit of the new body was shown when Clay, a new member of the House and but thirty-four years of age, was chosen Speaker, receiving 75 votes to 38 for William W. Bibb, of Georgia, and 3 for Macon.* He was the boldest and most active leader of the war Republicans; a man of the people — young, eloquent, and intensely American. Immediately after Congress assembled, Clay organized the committees, choosing the members with strict regard to the new policy. The Foreign Relations Committee was placed in the hands of Porter, Calhoun, and Grundy,† military affairs being put in charge of David R. Williams. The chairman of the Naval Committee was Langdon Cheves, while Ezekiel Bacon and Cheves were the most prominent members of the Ways and Means Committee.‡

On November 5 Madison sent in his third annual message.|| He expressed his discontent at the course of the British government, who, discredit-

ing the revocation of Napoleon's decrees, had refused to rescind their Orders in Council and had pressed with additional severity the enforcement of these odious regulations. He spoke of the unfriendly spirit evinced by the British authorities when they threatened to retaliate if the Non-importation Act were continued in force, and declared that "indemnity and redress for their wrongs have continued to be withheld and the coasts and the mouths of our harbors have again witnessed scenes not less derogatory to the dearest of our national rights than vexations to the regular course of our trade." With respect to France, the President said that no intention was exhibited of repairing wrongs or of restoring condemned American property. The United States had much reason to be dissatisfied with the restrictions placed upon American commerce "which, if not discontinued, will require at least corresponding restrictions on importations from France into the United States." Urging upon Congress "the duty of putting the United States into an armor and an attitude demanded by the crisis and corresponding to the national spirit and expectation," he recommended more ships and warlike materials and the appropriation of sufficient money to meet the emergency. The finances were said to be in a favorable condition; "the receipts into the treasury during the

* Clay, *Life of Clay*, p. 59.

† Von Holst, *Life of Calhoun*, p. 15.

‡ Schouler, *United States*, vol. ii., pp. 371-374; McMaster, vol. iii., pp. 427-431; Adams, *United States*, vol. vi., pp. 123-124; Adams, *Lives of Madison and Monroe*, *pp. 146-147; Mary P. Follett, *Speakers of the House of Representatives*, §§ 41-46; Fuller, *Speakers of the House*, p. 33 *et seq.*; Babcock, *Rise of American Nationality*, pp. 50-51.

|| Richardson, *Messages and Papers*, vol. i., pp. 491-496; *Annals of Congress*, 12th Congress, pt. i., pp. 11-15; Benton, *Abridgment*, vol. iv., pp. 401-403.

year have exceeded \$13,500,000 which have enabled us to defray current expenses including the interest on the public debt and to reimburse more than \$5,000,000 of the principal without recurring to the loan authorities of the last session.”*

After the President's message had been read, it was referred to a select Committee on Foreign Relations, among the members of which were Peter B. Porter, John C. Calhoun, and Felix Grundy. On November 29, Porter, the chairman of the committee, presented his report.† The committee gave a history of the wrongs and injuries inflicted upon the United States and asserted that the people could no longer be indifferent to such disgraceful wrongs but must boldly resist them. To this end the committee offered six resolutions, recommending that the ranks of the present military establishment be filled up by the aid of a bounty; that an additional force of 10,000 regulars be raised to serve for three years; that the President be authorized to accept the services of 50,000 volunteers, to order out such detachments of militia as the public service might require, and to equip the public vessels not in commission; and that merchant ships owned and navigated

wholly by American citizens be permitted to arm in self-defence.*

The House passed the first resolution without extended discussion. The second called for an additional force of 10,000 regulars to serve for three years and provoked a long debate on the evils and dangers of a standing army. Randolph began the debate by declaring that the resolution was unconstitutional since no money could be voted for a standing army for more than two years, and that such an army was unnecessary because 7,000,000 free Americans would not entrust their defence to 10,000 vagabonds taken from brothels and tippling houses. He wanted to know what use the committee proposed to make of the sailors. If they were necessary to fight the Indians, to protect New Orleans, or to repel invasion from Canada, he would vote for them—but not otherwise.‡ Of the twenty members who spoke, but two had a word to say against the

* See also Stevens, *Albert Gallatin*, pp. 212-213. For Gallatin's report see *American State Papers, Finance*, vol. ii., pp. 495-509.

† *Annals of Congress*, 12th Congress, pt. i., pp. 373-377; *Niles' Register*, vol. i., p. 252; *American State Papers, Foreign Relations*, vol. iii., pp. 537-538.

* Adams, *United States*, vol. vi., pp. 133-136; McMaster, vol. iii., pp. 431-432. Madison evidently neither had much respect for nor faith in this movement, and it seems to have amused him. Writing to Jefferson February 7, he says: "To enable the Executive to step at once into Canada, they have provided after two months' delay, for a regular force requiring twelve to raise it, and after three months for a volunteer force, on terms not likely to raise it at all for that object. The mixture of good and bad, avowed and disguised motives accounting for these things is curious enough but not to be explained in the compass of a letter."—*Madison's Works* (Congress ed.), vol. ii., p. 526; Gay, *Life of Madison*, p. 304.

‡ Speech of December 9, *Annals*, p. 422; Benton, *Abridgment*, vol. iv., p. 434.

resolution. The majority stated their position carefully, saying that in their opinion there had never been an hour since 1806 when the United States was not justified in making war on England. Congress and the President had tried every peaceful expedient rather than attack England, but the latter had attributed to fear what was in truth due to civility. Every concession made by the United States brought a new indignity, until it was necessary for the United States to strike back.* This feeling the people had clearly expressed at the polls, since they had returned to the new Congress only one-half of the members of the Congress which had made so many concessions. Randolph asserted that the people would never submit to be taxed for such a war, as the government had been framed merely to provide for the common defence and the general welfare. If we went into an offensive foreign war, we should act beyond the Constitution. To certain portions of the country, he continued, the war might be of advantage, but would those peo-

ple who would grow rich by furnishing the troops with supplies be willing to be taxed to support the war? Such remarks, however, carried no weight, and when the yeas and nays were taken, the resolution was passed with only 22 votes in opposition. This was the highest number recorded by the minority, the other resolutions being passed as follows: the second by a vote of 110 to 22; the third by 113 to 16; the fourth by 120 to 8; the fifth by 111 to 15; and the sixth by 97 to 22.*

Meanwhile the Senate had acted. William B. Giles became chairman of the Committee on Foreign Relations and on December 9 reported a bill for raising, not the 10,000 regular troops which the President had thought sufficient, but ten regiments of infantry, two of artillery, and one of cavalry — in all 25,000 men, to be enlisted for five years.† Giles admitted that the purpose of his bill was not to aid but to embarrass the Administration, nor did he deny that his aim was to drain the Treasury, embarrass the fiscal concerns, and paralyze the measures of the government. Senator James Anderson, of Tennessee, moved to amend the bill with a view to returning to the original plan of 10,000 ad-

* Calhoun said: "The question, even in the opinion and admission of our opponents, is reduced to this single point: which shall we do, abandon or defend our own commercial and maritime rights, and the personal liberties of our citizens employed in exercising them? These rights are essentially attacked and war is the only means of redress. * * * Which alternative this House ought to embrace is not for me to say. I hope the decision is made already by a higher authority than the voice of any man."—*Annals*, p. 476. See also Von Holst, *Life of Calhoun*, pp. 17-19. The whole speech is quoted in Jenkins, *Life of Calhoun*, pp. 39-47.

* McMaster, vol. iii., pp. 433-435; Adams, *United States*, vol. vi., pp. 136-146. For Randolph's various remarks see Adams, *John Randolph*, pp. 183-185, 253-264. For the entire debate see *Annals*, pp. 422-427, 441-522, 525-548, 560-566; Benton, *Abridgment*, vol. iv., pp. 434-465.

† *Annals of Congress*, 12th Congress, 1st session, pt. i., p. 29.

ditional troops. On December 17 Giles made a speech on this motion that could not have been more mischievous had he aimed only to destroy public trust in the government.* Avowing that he differed with the Secretary of War respecting the number of troops needed, he showed that the force he proposed was none too large to accomplish the objects of the government. Not content with proving himself wiser than the President and the Secretary of War, Giles made a virulent attack on the Secretary of the Treasury. He denounced Gallatin and asserted that all the measures which during the last three years had dishonored the nation might be attributed to the unwillingness of Jefferson and Madison to disturb Gallatin's popularity and repose. He said that the failure of the Embargo, the repeal of the salt tax, and the refusal to issue letters of marque were due to Gallatin, and that it would have been better to leave the National debt untouched than to pay it by surrendering the least bit of National sovereignty. In reply, George W. Campbell pointed out that the army proposed by Giles would defeat its own objects — would be unable to act against Canada as quickly as was necessary and would involve needless expenditure. "I trust," said Campbell, "it is not the intention of anyone, by raising so large a regular force, and thereby incurring so great an expenditure, beyond what it is be-

lieved is necessary, to drain your treasury, embarrass your fiscal concerns, and paralyze the best concerted measures of your government. If, however, such are the objects intended, a more effectual mode to accomplish them could not be adopted."† Although the object of Giles was plainly apparent, only 12 Senators supported Madison, while 21 voted for the bill.‡

The bill passed the Senate on December 19 and was at once referred to the House Committee on Foreign Relations. It is quite likely that Madison was then consulted, for when the bill was reported the number of troops had been cut down from 25,000 to 15,000; but when this amendment was proposed to the House the Republicans sharply attacked it. Henry Clay and the ardent war Democrats combined with the Federalists to force the larger army on the President. In his attack on the bill Clay admitted that the troops were to be raised for war purposes and used against Canada:

"Gentlemen say that this government is unfit for any war, but a war of invasion. What! Is it not equivalent to invasion, if the mouths of our harbors and outlets are blocked up, and we are denied egress from our own waters? Or when a burglar is at our door shall we bravely sally forth and repel his felonious entrance, or meanly skulk within the cells of the castle?"‡

* *Annals*, pp. 70-71.

† *Annals*, p. 84. See also Adams, *United States*, vol. vi., pp. 147-151; McMaster, vol. iii., pp. 435-436.

‡ Speech of December 31, 1811, *Annals*, pp. 596-602. See also Colton's ed. of Clay's *Works*, vol. v., pp. 278, 283; Schurz, *Life of Clay*, vol. i., p. 79.

* See *Annals*, pp. 35-52.

Nevertheless, as a concession to those Republicans who hated a standing army, Clay moved that the bill be amended. He would commission the officers of eight regiments immediately, and when three-quarters of the privates of these regiments had been enlisted, he would have the officers of the other five regiments commissioned—not before. The House, however, changed the number of regiments from eight to six, proposing to give the President discretion to raise only six if the larger force seemed unnecessary. Grundy defeated this effort of caution, however, by arguing that too much power had already been given to the Executive and that Congress must oblige him to take twice the army and double the patronage he had asked for or could use. With a few other amendments, the bill was passed on January 6 by a vote of 94 to 34 and went to the Senate.* There the amendments were almost immediately and unanimously stricken out† and the House, in no kind temper, was obliged to discuss the matter once more. Finally, with the aid of half the Federalists, the extreme war Republicans compelled the House to abandon all its amendments save one by a vote of 67 to 60;‡ the bill passed as Giles had framed it and on January 11 was signed by the President.¶

The House then took under consideration a bill to raise a volunteer corps, which soon brought on a constitutional debate. On December 26 Porter had introduced a bill authorizing the President “to accept of any company or companies of volunteers, either of artillery, cavalry, or infantry, who may associate and offer themselves for the service, not exceeding fifty thousand.”* These were to be officered according to the law of the State to which the companies belonged, to serve for one year, and to be paid the same as regular troops. Under the Constitution the President had no power to call out the State militia save to enforce the laws of the land, to suppress insurrections, and to repel invasions. But these volunteers were not to be used for such purposes; the chief object was to conquer Canada and occupy Florida in accordance with the regulations. The question was, Could the militia be used on foreign soil? Almost everybody thought not, and the debate began on the assumption that these volunteers were not to serve in Canada or Florida without their own consent. On January 11, however, Langdon Cheves informed the House that the Republican party hitherto had taken a wrong view of the subject. Said he:

“The power of declaring and making war is a great sovereign power, whose limits and extent

* *Annals*, pp. 608–691.

† *Annals*, pp. 95–96.

‡ *Annals*, pp. 702–718.

¶ For text see *United States Statutes-at-Large*, vol. ii., p. 671; *Annals*, pt. ii., pp. 2229–2234;

McMaster, vol. iii., pp. 436–437; Adams, *United States*, vol. vi., pp. 151–153.

* *Annals*, p. 583.

have long been understood and well established. It has its attributes and incidental powers, which are in the same degree less equivocal than those of other powers as it excels those powers in its importance. Do you ask, then, for the right of Congress to employ the militia in war? It is found among the attributes of the sovereign power which Congress has to make war. Do you ask for the limits to which this employment may extend? They are co-extensive with the objects of the war.”*

Cheves asserted further that the President himself held this opinion and should be left to act as he saw fit. But this view met with protests on all sides, even the war Republicans rejecting the idea of an unlimited war-power and declaring that the volunteers must be retained within the National boundary. The point was still unsettled when, on January 17, the House passed a bill by a vote of 87 to 23.† When the bill reached the Senate, Giles spoke against it chiefly on the ground that the volunteer force would prove inefficient, but his objections took no practical form. The bill passed without a division, and was approved by the President on February 6, 1812, though it contained nothing definite as to the use of the volunteers beyond the borders.‡

There was one subject, however, which was not so gently treated. On January 17, 1812, Cheves, as chair-

man of the Naval Committee, asked for an appropriation to build 12 war-ships of 74 guns each and 20 frigates, at a cost of \$7,500,000.* To seafaring men the idea of fighting England without ships seemed absurd, but the Republican party from its foundation had been pledged against the navy. Now the Republican party must either recant its former convictions or the war must be fought with no ships save privateers, thus leaving England with no anxiety except as to the defence of Canada. The matter resolved itself into the question not merely whether these frigates should be built or whether there should be a navy large enough to guard our commerce abroad and to defend our ports at home, but whether the country should be governed by the Republicans of the old school or by those of the new.

None knew this better than Cheves, but his arguments were futile. The House had submitted with considerable ill temper to the previous war measures, but this last requirement was too much. Cheves had gone too far, and many of his followers deserted him. Johnson and Grundy fiercely attacked the measure. All the old familiar arguments which had previously been used to excite the people against the navy were

* *Annals*, pp. 735-736.

† For the entire debate see *Annals*, pp. 728-801.

‡ *United States Statutes-at-Large*, vol. ii., p. 676; *Annals of Congress*, 1st session, pt. ii., pp. 2235-2237. See also Adams, *United States*, vol. vi., pp. 159-161; McMaster, vol. iii., p. 438; Babcock, *Rise of American Nationality*, pp. 56-57.

* For his speech, see *Annals of Congress*, 12th Congress, 1st session, pt. i., pp. 803-823; Benton, *Abridgment*, vol. iv., pp. 477-486. For the report of December 17, 1811, recommending the increase, see *American State Papers, Naval Affairs*, vol. i., pp. 247-252.

again employed. Johnson cited the experience of Tyre, Sidon, Crete, Rhodes, Athens, and Carthage, to prove that the moment a nation ceased to confine its navy to defensive purposes it took up with plunder, piracy and perpetual war.* Navies, he argued, had always been and always would be engines of power employed to promote ambition and war. Besides, the moment a nation put forth her strength on the sea it grew weak on the land. The country could not maintain a navy without oppressing the mass of the people with taxes; and even if a great navy could be maintained, it would be dangerous to the peace and tranquillity of the nation. Another contended that a navy would increase the executive patronage, since it must be maintained in times of peace as well as of war. We fought England once without a navy and could do so again, ran the argument. The debate ended on January 27, when the motion to build frigates was defeated by a vote of 62 to 59.† The provision appropriating money to build a dock-yard was stricken out also by a vote of 62 to 56.‡ Shorn of these provisions, both House and Senate passed the bill.||

By the middle of January Congress

* *Annals*, pp. 875-884; Benton, *Abridgment*, pp. 486-489.

† For the debate see *Annals*, pp. 823-846, 859-907, 909-1001; Benton, pp. 486-505.

‡ *Annals*, pp. 1002-1003.

|| For debate in Senate see *Annals*, pp. 131-159, 164. See also Adams, *United States*, vol. vi., pp. 161-164; McMaster, vol. iii., pp. 439-440.

had reached a point of disorganization threatening serious disaster. For a time the war leaders had lost control and could accomplish nothing; a bill providing a uniformed militia throughout the country was lost by a vote of 58 to 55, and it was only with the greatest difficulty that a majority of 16 (67 to 51) could be secured on a bill to arm the militia.* A resolution calling for a committee to frame a bill for a provisional army of 20,000 men was defeated by a majority of 9 (58 to 49).† This resolution was introduced (February 18) by Peter B. Porter because the two armies already provided for were useless. A law had been passed to raise 25,000 regular troops, but these could not be raised in time to render any service within a year. Their officers had not as yet been appointed and the troops themselves were to be raised in every section of the country, which would take much time. The President, therefore, could not count on the regulars. A law had been passed authorizing him to accept the services of 50,000 volunteers, but, as we have seen, it was a mooted question whether they could be sent into Canada; as the law stood, if they went at all, it must be of their own volition. Practically, therefore, the President had not a single man with whom to make war, and yet the Committee on Foreign Relations was blamed for not

* For the debate see *Annals*, pp. 1032, 1040, 1076, 1084, 1298.

† For the debate see *Annals*, pp. 1058-1069.

reporting a declaration of war. Let the President be given a provisional army which could be put into immediate use, Porter advised, and the committee would do its part. But the House would not follow such advice, instead turning its attention to raising money to defray the expenses of the troops and ships already provided.

In December, during the debate on the army bill, the Committee of Ways and Means had been repeatedly urged to produce a scheme of war finance, but it failed to do so. Ezekiel Bacon, chairman of the committee, wrote to Gallatin on December 9, 1811, asking information, but the Secretary delayed his answer until January 10, 1812.* The letter was read to the House on January 20 and proved, as had been foreseen, a discouragement to the war spirit. Gallatin assumed the fixed charges at \$9,600,000 and expressed his opinion that in time of war the imposts would not yield any more than \$2,500,000. The duties on tonnage, merchandise, etc., he estimated at \$6,000,000, leaving a deficiency of \$3,600,000 to meet the expenditures of 1813. An annual loan of \$10,000,000 would be required during the war. In order to pay the fixed charges of the Government, he recommended that Congress double the existing duties and, to meet the interest on the annual loan of \$10,000,000, reimpose the old duty on salt; and to

pay the deficiency of \$3,600,000 in the revenues, he recommended the raising of \$3,000,000 by a direct tax and \$2,000,000 by indirect taxes — licenses, excise stamps, etc. He concluded that there would be no difficulty in effecting the loans and recommended that they be irredeemable for ten years.*

For more than a month Congress left the subject untouched, but on February 17, in the midst of a discussion for raising the provisional army, Bacon brought in fourteen resolutions embodying a scheme for raising money.† The report (covering the years 1812, 1813 and 1814) stated that the ordinary expenses would exceed \$9,000,000, which could be paid out of the receipts and the surplus (with a trifle left in the Treasury). The maximum expenditures would be \$11,000,000, which could be met by a loan. The public debt account would need \$6,000,000, which could be borrowed by the commissioners of the sinking fund. The deficit would exceed \$6,000,000 in 1813 and \$7,000,000 in 1814. These deficits must be made good by three kinds of taxes — import and tonnage duties, internal duties, and a direct tax of \$3,000,000. Under the head of import duties was to be an additional duty of 100 per cent. on imported goods, wares, and merchandise, a new tonnage duty, a duty of

*Stevens, *Albert Gallatin*, pp. 214–216. See also Adams, *United States*, vol. vi., pp. 156–158; Bolles, *Financial History*, pp. 220–221.

* For text see *American State Papers, Finance*, vol. ii., pp. 523–527; *Annals of Congress*, pp. 848–858; *Gallatin's Writings*, vol. i., pp. 501–517.

† *American State Papers, Finance*, vol. ii., pp. 539–541; *Annals of Congress*, 12th Congress, 1st session, pt. 1, pp. 1050–1055.

\$.20 on salt and an increase of 25 per cent. in drawbacks on exported goods. Under the head of internal duties there were to be taxes on licenses to distill liquor from foreign materials, on licenses to retail wines, spirits and foreign goods, on refined sugar, on sales of foreign goods at auction, on pleasure carriages and stamps.* On February 25 the House acted upon the matter and by a vote of 92 to 29 passed a bill to raise \$11,000,000 at 6 per cent. and due in 12 years (Act of March 14, 1812).† The remaining suggestions were then reported by the Committee of the Whole to the House and all went well until the resolution to tax salt was reached. Representatives of the middle country complained that this tax would fall on them, not on the inhabitants of the seaboard or the West. Along the coast the farmer did not need to salt his cattle, while in the West there were many salt-works at which salt could be procured at \$.10 per bushel;

but the farmers of the middle country had no such resource and they would be the ones to pay the proposed duty of \$.20 per bushel on imported salt. This was admitted to be so, but the people of the middle country were told that they must not consider a particular section of the tax bills, but were to regard them as a whole. While the salt tax would bear somewhat heavily on one part, other parts would be more severely taxed by the tonnage duty, the spirit tax, the carriage tax, and the stamp tax. This divided the members on geographical lines, with the result that on February 28 the House, by a vote of 60 to 57 refused to impose a duty on imported salt.* The House then adjourned from Friday to Monday. During the recess the war leaders made every effort to regain their majority. They told the Southern members that the system of taxation was one of compromise and concession. If the salt tax were rejected merely because it would press heavily on the South, the land tax was to be rejected also because it would press heavily on the West. Hence, when the House reconvened, Thomas Gholson, of Virginia, moved to reconsider the vote.† He thought it best to take the whole dose, even though it were hemlock. This view was opposed by Nelson, of Virginia, and by Robert Wright, of Maryland. The latter said that Gallatin was trying to fix the odium of these taxes on Congress so

* McMaster, vol. iii., p. 442; Adams, *United States*, vol. vi., p. 166; Bolles, *Financial History*, p. 247.

† *Annals*, 12th Congress, pt. i., pp. 1086, 1088-1092; Bolles, *Financial History*, p. 221; Dewey, *Financial History*, p. 130. "The incongruity between appropriations and provision for them by taxation was such, that without a cent to be raised by taxes, more than fifteen millions of dollars were appropriated for the army, and nearly two million seven hundred thousand for the navy, when the income by customs, for 1811, did not exceed thirteen millions, and that of 1812 was only about nine millions and a half. All modern wars are carried on in part by loans, but loans secured by taxes. Our war was to be sustained by borrowed money without taxes, at any rate until after the presidential election."—Ingersoll, *History of the Second War*, vol. i., p. 70.

* *Annals*, pp. 1092-1116.

† *Annals*, p. 1118.

as to disgust the people and chill the war spirit.* He was following in the footsteps of his predecessors, attempting to load the people with an odious system of taxation for which the Federalists had been condemned and dismissed from power in 1800. The salt tax would as surely destroy the present administration. Privately many of the Republicans undoubtedly sympathized with Wright, but the other arguments met with favor and the duty of \$.20 on imported salt was accepted by a vote of 66 to 54.†

In revenge the Southerners wished to impose a tax of \$.25 per gallon on whiskey, instead of a tax according to the capacity of the still. Had this been done, the Maryland fruit-grower who distilled 2,000 or 4,000 gallons of apple brandy would have had to pay only \$5 into the Treasury, whereas the rye-growing farmers of Pennsylvania, Virginia, and Kentucky, who distilled 2,000 gallons of whiskey, would have had to pay \$500 into the Treasury. The gross injustice of this was pointed out by Grundy and R. M. Johnson, and the Maryland member finally withdrew his motion and the resolution passed as the committee had reported it. On March 4, after all the other resolutions had been adopted, the committee was instructed to report by bill.‡ At the same time

it was resolved that none of these taxes should be levied unless a state of war actually existed, that none should continue for longer than a year after peace, and that each State might assume and pay so much of the direct tax as fell to its share.*

Congress was now in a position where it must decide the question of war or peace at once. It was apparent that, in the present temper of the House, the question of war could not be raised with any hope of success.† Accordingly, to arouse a war spirit in that wing of the party which lacked it, Madison and his advisers made use of some papers which fortune had thrown in their way. John Henry (who in 1808 and 1809 had traveled in New England and had sent back to the governor-general of Canada, Sir James Craig, long accounts of the feelings of the people in that section of the country) was not satisfied with the reward offered him for these reports and, desiring revenge, offered them to the United States for \$125,000. After some weeks of negotiation, the Government agreed to give Henry \$50,000 and on February 10 the money was paid, partly out of the contingent fund for foreign intercourse and partly out of the contingent fund of the Department of State. On March 9 the papers were laid before Congress with a message which was silent

* See his speech in *Annals*, pp. 1122-1126; also quoted in Bolles, *Financial History*, p. 249.

† *Annals*, p. 1127; McMaster, vol. iii., pp. 442-443; Adams, *United States*, vol. vi., pp. 166-167.

‡ *Annals*, pp. 1128-1155.

* McMaster, vol. iii., pp. 443-444.

† Regarding the Federalist attitude see Foster's letters quoted in Adams, *United States*, vol. vi., p. 172 *et seq.*

as to the method of acquiring them, but which charged the British government with employing a secret agent "in fomenting disaffection to the constituted authorities of the nation, and in intrigues with the disaffected for the purpose of bringing about a resistance to the laws, and eventually, in concert with a British force, of destroying the Union and forming the eastern part thereof into a political connection with Great Britain."* When Henry's letters were read, the Federalists for a moment felt real alarm, as they had cause to; but a few moments' examination showed them that, so far as they were concerned, Henry had reported nothing of consequence.† The first in the series of letters was a note from Secretary Herman W. Ryland expressing Craig's high appreciation of Henry's work in 1808 and inviting him to undertake a similar mission to Boston in 1809. Henry was to study the state of public opinion, ascertain the true strength of the two great parties and which was likely to prevail. He was to find out if the Federalists, when they returned to power, would attempt to break up the Union, and if in doing so they would look to England for aid. Henry undertook the mission and from various places wrote long letters

to Craig. At this time the excitement over the Force and Embargo acts was at its height, and he represents the people as ripe for rebellion. Henry declared that the governor of Vermont would not use the State troops to enforce the Embargo and that, in case of war, Vermont would remain neutral. Otherwise the letters contained nothing of importance and were hardly more compromising than many letters, essays, addresses, etc., which had been printed time after time in the Federalist newspapers. No names were mentioned, no facts were given, and the accounts of the state of public feeling contained no more than could have been gleaned from the newspapers of the day. Undoubtedly Lord Liverpool rightly estimated their value when he refused to pay Henry one shilling. What was more singular, the letters sold as his own were not copies but paraphrases of the originals. Here and there were rows of mysterious asterisks, evidently introduced to excite curiosity, but (save for Craig's long letter of instructions and a short note from Robert Peel, secretary to Lord Liverpool, proving that Henry was employed as a secret agent to obtain political information and to ascertain if New England were ripe for rebellion and that his reports had been duly sent to the colonial office) there was nothing in these papers compromising anyone but Henry himself.* The

* Richardson, *Messages and Papers*, vol. i., p. 498. See also *American State Papers, Foreign Relations*, vol. iii., p. 545; *Annals of Congress*, 12th Congress, 1st session, pp. 1162-1181; Benton, *Abridgment*, vol. iv., pp. 506-515.

† The letters are in *American State Papers, Foreign Relations*, vol. iii., pp. 545-555.

* McMaster, vol. iii., pp. 446-447; Adams, *United States*, vol. vi., pp. 176-186. See also

British government through its minister positively denied any complicity in the affair.* The Federalists likewise treated with indignant scorn charges which came from such a quarter.† That the documents produced no result proportional to their great cost is certain, and it is doubtful whether they had any effect either on the spring elections or on the legislation which followed their publication.

The time had now come when the question of war or peace depended almost as much on the President as on either Congress or the people. In a few months a successor to Madison must be nominated, and a large number of the Republicans wished Madison to succeed himself. His position at this time was far from agreeable. He was constitutionally averse to war and neither by ability nor experience well adapted to conduct affairs in times of such commotion and excitement as invariably accompanied war. While he was hesitating and holding

back about an actual declaration of war, it is said that Clay and a number of the more ardent Democrats waited upon him and assured him that he must make up his mind on this point, or the party would probably supersede him by elevating DeWitt Clinton to the Presidential chair.* It cannot be affirmed positively that this story is true,† though it was repeated on the floor of the House by A. C. Hanson, of Maryland, and one member of the House (James Fisk, of Vermont) even claimed to have been one of those who made the threat.‡ However this may have been, it is certain that Clay did place before Monroe a plan of action which he desired the Administration to follow. It is certain, too, that the plan was followed and that after Madison had committed himself to war, the war members of Congress gave him hearty support.||

Clay's plan consisted of an embargo for 30 days, at the expiration of which, if England did not repeal her Orders in Council, a declaration of war was to be made. On March 31 Monroe

Adams, *Count Edward de Crillon*, in *American Historical Review*, vol. i., pp. 51-69; *American State Papers, Foreign Relations*, vol. iii., pp. 555-557.

*In a letter to Jefferson, March 9, 1812. Madison seems to have thought differently. He says "It is justified by the documents, among which are the original credentials and instructions from the governor of Canada and original despatch from the Earl of Liverpool, approving the conduct of the secret agent."—*Madison's Works* (Congress ed.), vol. ii., p. 530.

†Dwight, *History of the Hartford Convention*, pp. 195-212. See also Ingersoll, *History of the Second War*, vol. ii., pp. 219-222; Edmund Quincy, *Life of Josiah Quincy*, p. 250; Sullivan, *Public Men*, p. 329; Hildreth, *United States*, vol. vi., p. 284; Niles' *Weekly Register*, vol. ii., p. 19.

*Hildreth, *United States*, vol. vi., p. 298; Adams, *Lives of Madison and Monroe*, pp. 148-149; Von Holst, *Constitutional and Political History*, vol. i., pp. 230-231.

†Sargent says that the war Republicans were impatient at the delay in declaring war and the object of the visit was "to expostulate against longer procrastination."—*Life of Clay*, p. 44.

‡See McMaster, vol. iii., p. 448; Baheock, *Rise of American Nationality*, p. 61. Henry Adams (*Life of Albert Gallatin*, p. 456 *et seq.*) pronounced the story unfounded. See also Hunt, *Life of Madison*, p. 316 *et seq.*; Gay, *Life of Madison*, pp. 307-308.

||Schouler, *United States*, vol. ii., p. 388.

held a conference with the House Committee on Foreign Relations and informed them that Madison thought war should be declared before the adjournment of Congress and that, if the House would support it, he would send an embargo message. On receiving favorable assurances, Madison, on April 1, sent a secret message to Congress recommending an embargo for 60 days.*

Accordingly, on April 1, Peter B. Porter introduced a bill laying an embargo for 60 days. Grundy declared that such a measure would lead directly to war, but Henry Clay made an impassioned speech advocating the measure on that very ground. Randolph tried to convince the House that war was impossible and that an embargo was not a war measure, but the majority cut off debate with the previous question and at 9 o'clock the same night (April 1) passed the bill by a vote of 70 to 41.† The next day the Senate took the bill under consideration and on April 3 passed it with two amendments, one of which extended the Embargo from 60 to 90 days.‡ The peace party then made a desperate struggle for peace and succeeded in having the House concur by a small majority in the Senate

amendment extending the Embargo to 90 days, notwithstanding the vehement opposition of John Randolph and Josiah Quincy. Had the wishes of those who wanted time for negotiation prevailed, James A. Bayard would have been dispatched to London to lay an ultimatum before the British government, and the war might never have been fought; but Clay defeated this scheme, and on April 4 the Embargo began.*

The news of the passage of the Embargo reached Massachusetts during the closing hours of one of the most exciting election campaigns ever witnessed in that State, for on April 6 the people of the State were to elect a governor.† While the Republicans controlled the administrative machinery of the State government several laws had been passed not calculated to endear the Republican administration. Among these were the Districting Act, commonly known as the Gerrymander, and the act which made the pay of the representative a charge on the State treasury.‡ Under the Massachusetts Constitution, 40 Senators were to be chosen in such districts as were marked out by the General Court. That body was to make not less than 13 districts and to give none more than 6 Senators, the number of Senators per district depending on the share of the public taxes paid by the

* Richardson, *Messages and Papers*, vol. i., p. 499; Gay, *Life of Madison*, p. 306; *Annals of Congress*, 11th Congress, 2nd session, pt. i., pp. 186-187.

† *Annals*, pp. 1587-1598; Madison to Jefferson, April 3, Madison's *Works* (Congress ed.), vol. ii., p. 581.

‡ *United States Statutes-at-Large*, vol. ii., p. 700.

* *Annals*, p. 1600 *et seq.*; McMaster, vol. iii., p. 450; Schouler, *United States*, vol. ii., p. 389.

† Schouler, *United States*, vol. ii., p. 391.

‡ For Stuart's monstrous figure of the Gerrymander see Lossing, *War of 1812*, pp. 210-211.

district. Unless the General Court directed otherwise, each of the 13 counties of the State was to constitute a Senatorial district. As other counties were formed, the General Court did not depart from the principle of making each county a district, and what in the beginning was a temporary provision became an established usage. It was this usage that the Republicans now destroyed. After many years, they had succeeded in obtaining a majority in the Senate; and, in order to retain their control, rearranged the Senatorial districts without regard to the county lines. To such districts as were strongly Federalist they added enough of a neighboring Republican district to overcome the Federalist majority. Worcester County was cut into two, Bristol and Norfolk were joined, some of the towns of Suffolk were attached to those of Essex, with the result that in the next Senate the Republicans had 29 Senators out of 40.*

Having secured the Senate, the Republicans determined to secure the House. To the House each incorporated town of 150 ratable polls or less sent one representative, and for every 225 ratable polls above that number sent another Representative. The town paid the member's salary, but the State treasury paid the expenses incurred in going to and from the General Court. If a town failed to elect its delegates because of the

cost, the House could fine it. As a result, many of the smaller and poorer towns elected their Representatives and sent them to the General Court, where they remained only until the government had been organized. As many of these small towns were Republican, their votes were lost, while the wealthy commercial towns, which were Federalist strongholds, maintained a full delegation in the House. To settle matters, the Legislature passed an act taxing the rich Federalist cities to pay the salaries of delegates from the poor Republican towns. In other words, the pay of the members of the General Court was taken out of the State Treasury, and to meet this charge the taxes were increased. These laws in themselves would have been enough to make the campaign exciting, but hardly had the two opposing candidates (Elbridge Gerry, Republican, and Caleb Strong, Federalist) been nominated when news of the action of Congress, together with the intelligence of the doings in France and England, began to arrive. Hence, when the votes were counted, it was found that out of 100,000 cast, Strong had obtained a majority of more than 1,000. Thus Massachusetts was lost to Republicanism.*

The Federalists now found new cause for rejoicing in the failure to place the \$11,000,000 loan. Subscriptions were opened on the 1st and 2d of

* McMaster, vol. iii., pp. 452-453.

* McMaster, vol. iii., pp. 453-454; Adams, *United States*, vol. vi., p. 204.

May in all of the seaboard cities from Charleston to Portsmouth. The terms were liberal. For every subscription of \$100, 12½ per cent. was to be paid down and a like sum on the 15th of each month, from June to December. The rate of interest was to be 6 per cent. and the loan was to run 12 years. The Republican journals urged the people to take the bonds with the same eagerness with which they had bought the stock of banks, turnpike companies and industrial concerns. The disappointment was keen; when the books were closed on May 2, the people had subscribed only \$1,928,900 and the banks but \$4,190,000.* Federalist New England refused to subscribe at all and in the whole section less than \$1,000,000 was obtained. About \$1,500,000 came from New York and Philadelphia, and as much from Baltimore and Washington, while the whole South (from the Potomac to Charleston) subscribed only \$700,000.†

Throughout the month discouragements followed one another with monotonous regularity. In New York the Federalists secured the Assembly and in Massachusetts chose a General Court more strongly Federalist than anyone had hoped for. Sections supposed to have been warmly Re-

publican broke out into open revolt against the Embargo and besieged Congress with petitions for its repeal. On May 6 Harmanus Bleecker, of New York, offered petitions for the repeal of the Embargo,* saying that it could not be honestly intended. War would be little short of treason, it would bring shame, disgrace, and defeat, and much of the burden would have to be borne by those people whom the Administration was now alienating by the Embargo. John Randolph made a similar speech,† and the two were answered by Richard M. Johnson, Calhoun, Grundy, and Wright, of Maryland.‡

On May 19 the sloop of war *Hornet* arrived at New York and three days later her dispatches reached Washington. When it was learned that the *Hornet* had brought nothing favorable from France as to the revocation of Napoleon's decrees, and that Lord Castlereagh had refused to recall the British orders, the furious declamations of the Federalists of the commercial cities and of the numerous friends of England were redoubled, while the Republicans, deceived in their hopes, joined in the outcry. For three days nothing was heard but a general cry for war against both France and England.¶ Accordingly Madison prepared a message recommending an immediate declaration of

* See Gallatin's report of May 14, 1812, *American State Papers, Finance*, vol. ii., pp. 564-568; *Annals of Congress*, 12th Congress, 1st session, pt. ii., pp. 2093-2102.

† Adams, *United States*, vol. vi., pp. 206-207; McMaster, vol. iii., pp. 454-455; Bolles, *Financial History*, pp. 222-223.

* *Annals*, p. 1379 *et seq.*

† *Ibid.*, pp. 1384-1390.

‡ *Ibid.*, pp. 1390-1414.

¶ See Serurier's letter, quoted in Adams, *United States*, vol. vi., p. 217.

war (though only against England). This message was sent to Congress on June 1 and, after the two Houses had gone into secret session, was read.* The House referred the message to the Committee on Foreign Relations and on June 3 Calhoun brought in a report recommending an appeal to arms.† In substance, this report declared that the encroachments and insults of England had been borne much too long and that the impressment of our seamen, the British blockade, the continuance of the Orders in Council, the attempt to excite the Indians to hostilities, etc., demanded that the United States should seek redress by an appeal to arms so that the world might know "that we have not only inherited the liberty our fathers gave us, but also the will and power to maintain [it]."

* Richardson, *Messages and Papers*, vol. i., pp. 499-505; *Annals of Congress*, 12th Congress, 1st session, pp. 1624-1629; *House Supplementary Journal*, 12th Congress, 1st session, vol. viii., pp. 454-457 (ed. 1826); *American State Papers, Foreign Relations*, vol. iii., pp. 405-407; MacDonald, *Select Documents*, pp. 184-191. For discussion of it see Adams, *United States*, vol. vi., p. 221 *et seq.*

† *Annals*, pp. 1546-1554; *American State Papers, Foreign Relations*, vol. iii., pp. 567-570; Von Holst, *Life of Calhoun*, pp. 21-22; John Brannan, *Official Letters of the Military and Naval Officers*, pp. 15-24. Gaillard Hunt, in his *Life of John C. Calhoun*, p. 25 (1907), says that this report has been attributed erroneously; that because of its great length and the evident elaborate care in the preparation, the report could not have been composed in less than two days; that it had been prepared by Monroe when the war message was prepared, or before, and refers to the statement of Joseph Gales, who asserted that he saw the report and that it was in the handwriting of Monroe's private secretary.

Notwithstanding the force and urgency of the committee's report and its support by many members of the House, it was doubtful for a time whether a majority would agree to an immediate declaration of war. The Federalists warmly opposed it, and the Democratic members voted with them. Finally, however, on June 4, the third reading was carried by a vote of 78 to 45 and the same day the bill passed by a vote of 79 to 49.* The bill was immediately sent to the Senate, where it encountered strong opposition. In that body the President's message had been debated in secret, but the proceedings were very deliberate. On June 8 the committee having the message in charge reported the House bill with amendments and on the 11th, by a vote of 17 to 13, the Senate returned the bill to the committee for further amendment. The next day the committee reported the amendments, as instructed; but on discussion these amendments were thrown out.† On the 15th the third reading of the House bill was voted 19 to 13,‡ but on the 16th, after a strong speech for

* *Annals*, pp. 1634-1637; Von Holst, *Constitutional and Political History*, vol. i., p. 233; Adams, *Lives of Madison and Monroe*, pp. 155-156; Babcock, *Rise of American Nationality*, pp. 68-69. Of the 79 who voted for war, 46 were Southerners and 33 Northerners; of those who voted for peace, 11 were Southerners and 38 Northerners. In the Senate of the 19 who voted for war, 14 resided in the South and 5 in the North.

† *Annals of Congress*, 12th Congress, 1st session, pp. 267-271.

‡ *Annals*, pp. 271-287.

delay by James A. Bayard, the Senate adjourned without action.* It was not until the 18th, after two weeks of secret discussion, that the bill was passed by a vote of 19 to 13. The bill, with the amendments, was then passed by the House and immediately signed by the President.† On June 19 the President issued his proclamation announcing the fact that war existed and calling upon the authorities and all good citizens to sustain the country in the measures just adopted.‡

After war had been declared, the business of providing means to carry on the war was taken into consideration. In view of the fact that a Presidential election was approaching, the Republicans had little desire to restore that system of taxation which they had destroyed so many years before. They therefore appealed to Gallatin to devise some way of modifying the Non-importation Law so that it would yield as much revenue as the proposed internal taxes, tonnage duty, and diminution of the drawbacks. Gallatin suggested that the law be suspended for a few months and that the duties on imports be doubled.¶ On June 19, therefore,

Langdon Cheves introduced a bill from the Committee of Ways and Means partially suspending the Non-importation Act.* At the same time news arrived that more American vessels had been burned by French frigates. This created an extraordinary situation. Commerce with England was about to be resumed though we were at war with her; alliance with France was a state of war with that nation. The war party proposed to depend on peace taxes at the cost of their ally France in the interest of their enemy England, while the peace party called for war taxes to discredit the war. Both parties desired trade with England with whom we were then at war, while all were very unwilling to assist France, then our only ally. Undoubtedly there was so much bitterness against France that war would have been declared with her as well as against England, had not the Administration stopped the movement in Congress.† As a result, when Cheves proposed to modify the Non-importation Act, the Federalists moved to repeal it altogether; and when the bill was reported from the committee, Calhoun rose to advocate the reopening of trade. Although he knew that he was condemning a favorite principle of the old Republicans,

* *Annals*, pp. 287-296.

† Acts of the 12th Congress, 1st session, chap. cii. For text see *United States Statutes-at-Large*, vol. ii., p. 755; MacDonald, *Select Documents*, pp. 191-192. See also Hunt, *Life of Madison*, pp. 324-325.

‡ Richardson, *Messages and Papers*, vol. i., pp. 512-513. See also Lossing, *War of 1812*, pp. 226-228.

¶ Gallatin to Cheves, June 10, 1812, Gallatin's *Writings*, vol. i., pp. 518-520.

* *Annals*, pp. 1511-1513.

† Directly after war was declared, the Federalist members issued a long and able review of the war measures, giving their reasons for opposing the war at that time. See *Annals of Congress*, 12th Congress, 1st session, pp. 2196-2221; *Niles' Weekly Register*, vol. ii., pp. 309-315.

he said that the restrictive system as a mode of resistance and as a means of obtaining a redress of our wrongs had never been a favorite one with him because it suited neither the genius of our people, that of our government, or the geographical character of our country. He said that we had had a peace like war, but prayed that we should be spared the only thing that was worse, a war like a peace.* In spite of his eloquence, however, the old Republicans won, and by three votes (61 to 58) carried a motion to suspend the bill indefinitely.† On June 25 the Federalists, encouraged by this vote, returned to the attack, moving to appoint a committee to report a bill repealing the act and succeeded in dividing the House 60 to 60. Clay having the casting vote, he decided in the negative and defeated the motion.‡ On the 26th the bills to lay war taxes were postponed to the next session by a vote of 72 to 46.¶ But as some money must be had, the Senate passed a bill to issue \$5,000,000 in Treasury notes§ and on June 30 a bill was passed doubling the duties on imports.¶ Such other bills as were most

important were passed in rapid succession, and on July 6 Congress adjourned.*

Meanwhile the British Orders in Council had been repealed. The ruin which had overwhelmed British commerce and industry in 1810 sank deep among the laboring classes in 1811. The long Embargo and the Non-importation Act had inflicted deep injury upon the people of England; commerce was almost ruined by the loss of the American market, which was worth nearly \$60,000,000 a year to British merchants; industries were depressed; workshops and factories were closed; thousands of working people were idle and in want; and in addition, the crops had been so poor that foodstuffs were far beyond the purchasing power of the poorer classes. But the distress of the people alone (which continued until 1812) could hardly have effected a change in Perceval's system; it was the entry of England's laboring classes into politics that produced the change. In their hostility to Perceval's policy, they were backed by their employers, but the united efforts of the two classes (the employers and the workmen) could not control the government; while they worried Perceval, they did not break him down. Fully convinced that the crisis was at hand, the corporation of London sent an address to the prince regent on the eve of the meeting of Parliament, ask-

* *Annals of Congress*, 12th Congress, 1st session, pp. 1539-1541; Von Holst, *Life of Calhoun*, pp. 23-25.

† *Annals*, pp. 1533-1542.

‡ *Annals*, pp. 1544-1546.

¶ *Annals*, pp. 1514-1515, 1517-1532, 1555-1559.

§ Act of June 30, 1812, 12th Congress, 1st session, chap. xxi. See also Bolles, *Financial History*, pp. 223-224.

¶ Bolles, *Financial History*, p. 251; *Annals*, p. 311.

* McMaster, vol. iii., pp. 458-459; Adams, *United States*, vol. vi., pp. 230-235.

ing that he cause the suspension of the use of grain in the distilleries and do everything in his power to open trade with neutral nations. This meant the United States, but there seemed no hope of an amicable arrangement. When news arrived that the American Congress had met and that the President's message, the reports of the Committee on Foreign Relations, the comments of the press, and the general feelings of the American people announced war, it was clear that the rupture between the two nations was final. Every day the news became more and more alarming and was reinforced by steadily increasing outcries from Birmingham, Nottingham, Manchester, Liverpool, and other large cities. Made reckless by idleness and want and not knowing the true cause of their distress, the workmen in the inland counties had turned upon their employers and had begun to destroy every kind of labor-saving machinery. In many parts of England stocking frames and shears, spinning jennies and mules were broken, wheat and potatoes were seized, and mob violence became prevalent in some of the larger cities. Seizing on this discontent and suffering and on the known unwillingness of the ministry to incur the expense of the American war, the manufacturers called meetings, passed resolutions, and drew up petitions for the repeal of the Orders in Council. The movement spread rapidly and by March, the northern, western, and

midland counties were in open revolt. Petitions to Parliament came from the china and earthenware makers of Staffordshire, from the merchants and woolen manufacturers in the West Riding of Yorkshire, from the framework knitters of Leicester, from Lancaster, also Sheffield, York, Liverpool, Hull, Leeds, and Birmingham. The petition from Leicester was signed by 11,000 workmen, that from Leeds by 17,000, and that from Birmingham by 20,000.* The burden of these petitions was that, while the loss of European trade could be borne without any great hardship, the additional loss of the American markets would utterly destroy England's industries and place 70,000 skilled workmen face to face with idleness, hunger, and extreme want.

On February 13, 1812, Samuel Whitbread, in a strong American speech, moved for the diplomatic correspondence with the United States. He was answered with some heat by Perceval and James Stephen. Stephen went so far as to declare that "nothing but the utmost aversion to a quarrel with America would have enabled this country to have borne so much. So far from having done anything to provoke a rupture with America," he said, "the strongest, most persevering, and almost humiliating means had been employed to avoid it." † He said that he would

* McMaster, vol. iv., pp. 3-4.

† Hansard, *Parliamentary Debates*, vol. xxi., p. 773.

not surrender to America the coasting trade of Europe, even to prevent war. Perceval declared that Napoleon's decrees were responsible for the Orders in Council, but closed his speech by saying that rather than yield to the repeal of the Orders, he would refuse to share in any administration. Alexander Baring said that in this case war could hardly be prevented and made an earnest appeal, founded on the distress of the manufacturing towns favoring the direct interference of Parliament, to overrule Perceval. In the Lords on February 28 Marquis Lansdowne moved that a committee be appointed to consider the subject of the Orders, but his motion was rejected by a vote of 135 to 71. Lansdowne's motion was repeated by Henry Brougham in the Commons on March 3. In reply, George Rose made a general denial of the facts Brougham alleged. He said that the Orders had not injured the British export trade or caused manufacturing distress and brought forth a marvellous array of statistics to support his statements, but toward the close of the speech he made a remark which in effect surrendered the point in diplomatic dispute between England and the United States. "The honorable gentleman," said he, "had not been correct in calling these Orders a system of retaliation; they were rather a system of self defence, a plan to prevent the whole trade of the world from being snatched away from her." Rose was followed by

Baring, who condemned the policy of building up French shipping at the cost of American shipping and stimulating Massachusetts manufactories at the cost of British manufactories. Finally George Canning rose and in a remarkable speech attacked Perceval. He said that the Orders in Council had always been regarded as retaliatory upon the enemy and had been so understood in every instance until the vice-president of the board of trade, "in contradiction to every statement which had hitherto been given to the public on the subject—in contradiction to every document in office respecting these Orders—in contradiction to every communication which he (Mr. Canning) had made, and every despatch written in his official character explanatory of their nature and spirit—in contradiction to every speech which had been made in Parliament in defense of them—had thought proper to represent them not as measures retaliatory upon the enemy but as measures of self defense." Mr. Canning said that if these Orders were no longer to be considered retaliatory but merely defensive against a rival in trade, then all the arguments by which they have been hitherto supported would fail to apply. Perceval then undertook to answer Canning, but only made the case worse. After declaring that the Orders were strictly retaliatory, he said that "the object of government was to protect and to foster the trade of this country. * * * The object

of the Orders in Council was not to destroy the trade of the continent but to force the continent to trade with us." The debate ended in a division — 144 members including Canning and Wilberforce going into the lobby with Brougham, leaving a majority of 72.*

But the assertions of the ministers that their Orders were beneficial went for nothing. In the hope of securing relief, Castlereagh, under Perceval's instructions, wrote to Foster on April 10 justifying England's persistence in the Orders on the ground of Bassano's report; but in a long note of the same day he said that if the United States would restore intercourse with Great Britain, the British government would grant no more licenses and would resort to vigorous blockades. Furthermore, on April 21, the prince-regent issued a proclamation that whenever the French should publish an authentic act expressly and unconditionally repealing the Berlin and Milan Decrees, the Orders in Council, including that of January 7, 1807, would be absolutely revoked. This proclamation considerably weakened Perceval's influence, and when (on April 28) Lord Stanley in the Commons made a motion for a committee to hear the petitions against the Orders, the ministry gave way completely. The committee immediately began its examination of witnesses, who appeared from every quarter to

prove that the Orders and the subsequent Non-importation Act had ruined important and lucrative branches of British trade. Perceval and Stephen did their utmost to stem the tide, but were slowly overborne. The committee was still busy hearing testimony, when on May 11, as Perceval entered the House to attend the investigation, he was shot and instantly killed by a lunatic.*

The untimely death of the premier served only to incite Brougham and the opposition to push forward the investigation with new energy. The evidence gathered by the committee forced the conviction that there must be a change of system. The testimony was overwhelming that great industries had been prostrated, mills and factories shut, merchants ruined or greatly embarrassed, and thousands of the working classes brought to the verge of starvation by the loss of the American market. In the face of this evidence, coupled with the alarming news that Congress had imposed an embargo as the last step prior to war, a weak ministry could not stand. On June 16, a few days after Lord Liverpool had announced that he had formed an administration, Brougham made a motion for the repeal of the Orders.† After some debate, Lord Castlereagh rose and announced that

* Adams, *United States*, vol. vi., pp. 281-284; McMaster, vol. iv., p. 5.

† Brougham's claim to the credit of repeal is in his *Autobiography*, vol. ii., p. 7.

* Adams, *United States*, vol. vi., pp. 276-280.

the government had decided to suspend immediately the Orders in Council. These Orders were abandoned at Westminster on June 17, only twenty-four hours before war was declared against Great Britain at Washington. Having received no intelli-

gence of this, however, the prince regent on June 23, 1812, formally proclaimed that the Orders of January 7, 1807, and April 26, 1809, were no longer in force, provided the United States repealed the Non-importation Act and did not resort to hostilities.*

CHAPTER XIV.

1805-1812.

THE ECONOMIC STATE OF THE PEOPLE.

Population — Changes in government — Agriculture — Importation of Merino sheep — Mineral wealth — Chartering of turnpike corporations — The Coast Survey — The Cumberland Road — The Chesapeake and Delaware Canal — Gallatin's report on roads, canals, harbors and rivers — Appointment of the Erie Canal commission — Appropriations by Pennsylvania for road improvements — Beginnings of steamboat navigation — Opening of railways and tramways — Foreign commerce — Manufactures — Efforts to secure protection — Gallatin's report on manufactures — The debate on the Bank question — The labor question — Strikes and lockouts — Slavery.

Before narrating the events of the second struggle with Great Britain, let us glance at the marvellous strides made by the people in their material and social welfare.

During the twenty years from 1790 to 1810 the population of the country had increased from 3,929,214 to 7,239,881. In the latter year the whites numbered 5,862,073 and the colored people 1,377,808, of whom about 186,000 were freemen. The increase had been rapid everywhere except in New England and especially so in the States beyond the Alleghanies.* This increase was due less to immigration than might be supposed, for during the twenty-five years prior to 1815 the

average annual number of arrivals was less than 5,000. Of children born on the soil the number was very great — almost double the number of deaths.† During the same epoch the country had more than doubled in area, being about 2,000,000 square miles — an expansion accounted for chiefly by the purchase of Louisiana which added nearly 900,000 square miles to our territory. Much of this vast expanse was still in its primeval state, but the westward movement of the people had reclaimed thousands

* *American State Papers, Foreign Relations*, vol. iii., p. 433; *Niles' Weekly Register*, vol. i., pp. 392-393. This document was careful to state that whenever he should think proper, the prince-regent might reëstablish the Orders in Council, in their full effect.

† Schouler, *United States*, vol. ii., p. 232.

* For statistics see vol. i., pp. 10-11.

of square miles from the haunts of the savage and the wild beast.

In 1809 there were seventeen States (Vermont, Kentucky, Tennessee, and Ohio having been added to the original thirteen). In eight of these States the laws had remained practically unchanged from the formation of the government. In Rhode Island and Connecticut the old colonial charters still formed the political basis; New York, New Jersey, Maryland, Virginia, and North Carolina still retained their Revolutionary constitutions; while Massachusetts operated under the constitution framed in 1780. After the adoption of the Constitution, new constitutions had been adopted by New Hampshire, Vermont, Pennsylvania, Delaware, South Carolina, Georgia, Tennessee, Kentucky, and Ohio—that of Kentucky being revised in 1799.* Each State possessed a single executive and an independent judiciary, with appellate and inferior courts, and all the legislative bodies, save that of Vermont, consisted of two chambers. In all the South Atlantic States, as in Maryland and New Jersey, the governor was elected by the legislature, but in the other States the choice rested with the people. In general only a man of property was eligible to the governorship, and in Massachusetts and some other States only a professed Christian could aspire to the office. The

term was generally limited to one or two years, but in New York, Pennsylvania, and Delaware it was extended to three and in Kentucky to four. The veto power was given to the governor generally but not universally, that important function being vested in New York in a council of revision. Another important body in New York was the council of appointment, which dispensed public patronage until it was abolished by the constitution of 1821. Popular suffrage had not yet been freely and entirely conceded. Poll suffrage was coming very slowly into favor and the majority of the older constitutions still conferred the franchise on property alone, adhering also to the British idea that only landholders should vote. Religious tests, however, had begun to disappear, though in some States the clergy were excluded from the State legislature and even from office-holding altogether. Discriminations in suffrage and office-holding against free blacks were not infrequent. The basis of representation in most of the States was the same as the Federal—the decennial census. Elections were as frequent as the sessions of the legislatures. In New England the elections for governor and legislators were held annually in the spring; Tennessee had a biennial legislature; and in most other States the National Legislature served as a model, the members of the upper house serving for a longer period than those of the lower house, who rotated at definite intervals. In

* These constitutions will be found in Thorpe, *Federal and State Constitutions*, vols. i.-viii., *passim* (under the names of the various States).

several States the members of the judiciary were appointed by the governor, subject to the approval of the upper house of the legislature, but in the others they were elected by the legislature. In eleven States judges held office during good behavior, but in the rest the average term was seven years. In New Hampshire judges could not hold office beyond the age of seventy, while New York disqualified them at sixty.

The most noticeable changes during the past two decades were in material conditions. By far the greatest number of inhabitants was engaged in agricultural pursuits; hence our chief exports were agricultural, cotton having already become king. The principal crops in New England were wheat, Indian corn, rye, beans, peas, and potatoes, and much land was devoted to the pasturage of cattle; in the South the largest and most valuable crops were cotton, tobacco, rice, and indigo. New England, however, was more of a dairying than a grain-growing region, her dairy products and lumber being sent to other States in exchange for grain, cotton and other agricultural products. The Middle States constituted the great wheat-raising region, while New Jersey furnished fruits and garden truck to the large cities. In the more mountainous parts of the South and border States cereals were cultivated and swine raised; in North Carolina much profit was derived from the pitch-pine; and in Maryland and Vir-

ginia, where the soil had become exhausted by tobacco crops, other experiments had been tried, as the breeding of horned cattle and blooded horses and, about the time of the Embargo, of Merino sheep. Little attention had been paid to the cultivation of grapes, oranges or olives, nor had the manufacture of native wines been given much thought. Wealthy planters had experimented much with sugar cane, but only in the vicinity of New Orleans would the cane thrive. In the North flax and hemp were cultivated, but not extensively.

In 1801 Merino sheep began to be imported and mills were erected to turn their fleece into cloth. The first considerable importation of these sheep arrived in May of 1802. So successful was the first experiment made by David Humphreys (minister from the United States to Portugal) that hardly a ship came to port without a few Merinos, whose importation was further encouraged by special enactments of the legislatures granting bounties to cotton and wool manufacturing companies, etc.* In a communication to the Agricultural Society of Dutchess County, N. Y., Robert R. Livingston says that his net profit for the year (1807) from a flock of 64 sheep was £137, 18s. Livingston rapidly increased his stock and by example and counsel did much to turn

* Bishop, *History of Manufactures*, vol. ii., pp. 86 *et seq.*, 94; McMaster, vol. iii., pp. 503-504.

the attention of farmers to the improvement of their breeds of sheep.*

The country was blessed with a liberal supply of minerals, but there was at this period very little mining and of scientific methods of mining none whatever. Small quantities of gold had been found in North Carolina and the existence of copper near far-away Lake Superior was known. Inquiries had just been instituted by Congress concerning lead mines in Louisiana Territory within the present State of Missouri, but iron was the only American ore of immediate consequence. The latter might be obtained in Vermont, Pennsylvania, Maryland, and Virginia, and several small furnaces were in actual operation, but so unskillfully was the melting process applied that the iron was of too poor a quality for fine work, and foreign materials continued to be used in American rolling and slitting mills.

The foreign commerce of the country had grown out of all proportion to its ability to supply the demand of foreign markets, and this stimulated the westward movement of such people as were inclined to agriculture. The high price of wheat, corn, flour, etc., sent thousands beyond the borders of civilization to settle and lay out farms, but the great problem was transportation. The shippers were as eager to get the farm products as the farmers were to send them, and the old rage

for road-building, river improvements, and canals revived.* The States were spending as much money as they could afford on roads and bridges in the sparsely settled regions, and the only escape from the dilemma was to encourage the people by liberal charters and grants of tolls to make such improvements for themselves. The chief method adopted by scores of communities was the turnpike road, because, as the value of the backlands increased and the production grew, the proceeds from tolls would become correspondingly larger. This, coupled with the fact that the farmer was compelled to use the turnpike to get his produce to market, promised great dividends and thereby induced hundreds of communities to risk their capital in such ventures. By 1810 more than 180 turnpike corporations had been chartered in New England — 26 in Vermont and more than 20 in New Hampshire; and by 1811 New York had chartered 137, New Jersey, 30, Pennsylvania 33, and Maryland 3.†

Many demands for internal improvement at public expense had been

* McMaster, vol. iii., p. 462.

† *Ibid.*, vol. iii., p. 463. In his report of April of 1808, Gallatin said that in Connecticut 50 turnpike companies had been incorporated since 1803, and up to 1808 had completed 39 turnpikes extending 770 miles. In New York 67 turnpike companies, capitalized at \$5,000,000 had been incorporated in seven years; and 21 companies had been incorporated to erect toll-bridges. Others had been incorporated in Pennsylvania, New Jersey and Maryland. By April of 1813, New York had chartered 180 companies. (Bishop, *History of Manufactures*, vol. ii., p. 198.)

* Bishop, *History of Manufactures*, vol. ii., pp. 118-119.

made upon Congress, but the extent of the power of Congress to regulate the highways of commerce was yet to be settled. Bridges, canals, piers, extending into rivers and bays, the removal of sand bars and shoals, and surveys of rivers and coasts were some of the proposals made. That body took the matter of surveys under serious consideration as early as the session of 1794-95, when (on February 27, 1795) a committee recommended that charts of the coast from St. Mary's River to Chesapeake Bay be secured from individuals wherever obtainable, and that the revenue cutters be employed in making such surveys where none could be secured otherwise. Nothing was accomplished at this session and the matter was put over until the next when (December 29, 1795, and May 14, 1796) two reports were made recommending that every bay, sound, harbor and inlet of the whole coast should be surveyed and mapped. Six years elapsed, however, before definite action was taken. Then, by the act of April 6, 1802, a number of lighthouses (some of them on Long Island Sound) were to be erected. In order better to select sites for the lighthouses, competent surveyors were employed, and the result of their work was an excellent chart of the Sound.* Congress allowed the work so well begun to lag, and it was not until four years later (April 10, 1806) that a bill was passed providing

for the survey of the coast of North Carolina from Cape Fear to Cape Hatteras.* Ten days later (April 20, 1806) another bill was passed providing for the survey of the shores of Orleans Territory from the mouth of the Mississippi to Vermilion Bay.† During the second session of the Ninth Congress a bill was passed founding the Coast Survey, which Jefferson signed February 10, 1807.‡ The law set apart \$50,000 for surveys and charts of the shore lines, the islands, shoals, roads, places of anchorage, etc., within twenty leagues of our coast.

Congress was not insensible to the internal needs of commerce. Indeed, it had pledged itself to aid it by the compact made with Ohio. When Ohio was admitted the public lands within her borders were not to be taxed for five years from the day of sale, in return for which Congress promised to spend 5 per cent. of the net proceeds of such sales in building roads, some of which were to be in the State and some to connect the Ohio River with navigable rivers emptying into the Atlantic. On March 3, 1803, 3 per cent. had been appropriated for road-making within the State, but the other 2 per cent. was left to be accumulated for highways outside the State, and by December of 1805 a fund of \$12,652

* For the report of the surveyors see *American State Papers, Commerce and Navigation*, vol. i., pp. 690-692.

† McMaster, vol. iii., pp. 466-467.

‡ *Annals of Congress*, 9th Congress, 2d session, pp. 1252-1253.

* McMaster, vol. iii., pp. 465-467.

had accumulated. A Senate committee thereupon recommended on December 19, 1805, that this money be used to construct a road from Cumberland, Maryland, to a point near Wheeling, on the Virginia side of the Ohio.*

On March 24, 1806, an act was passed by a vote of 66 to 50 and signed by Jefferson on March 29, for the construction of such a National road.† Congress appropriated \$30,000 to begin the work and commissioners were appointed to select the routes. More money was appropriated in 1810 and 1811, but the work progressed so slowly that the first contracts for building the road were not signed before May of 1811.‡ Besides this bill appropriating \$30,000 of the public money to this service, Jefferson signed also bills appropriating \$6,000 for the construction of a road from Nashville, Tennessee, to Natchez, Mississippi; \$6,400 to a road from the frontier of Georgia, on the route from Athens to New Orleans; and \$6,000 more to a road from the Mississippi River to the Ohio.

Another appeal for aid was then made to Congress by the officers of the Chesapeake and Delaware Canal, which had spent so much of its money in buying water rights, making surveys, and digging a feeder, that nothing was left with which to dig the

canal itself. In December of 1805, therefore, the company appealed to Congress for help, saying that the work was not only of local but of general importance, and that the construction of this canal would lead to the building of others — particularly the Delaware and Raritan — and thus open up a continuous inland waterway from Hampton Roads to Narragansett Bay and the headwaters of the Hudson and the Mohawk. In addition it was maintained that the Dismal Swamp Canal, then building, would extend the line to Albemarle Sound and the bays and inlets of South Carolina, and that a canal from Buzzard's Bay to Massachusetts Bay would open the route to Boston. The economic value of such a work was set forth in glowing terms.* On March 5, 1806, a committee of the House reported against granting the company pecuniary assistance,† but a Senate committee reported favorably on March 21‡ and a bill was brought in early in 1806 proposing to buy at \$200 each the shares of the company which had not been sold and to pay for them by grants of land,|| but the bill went over

* *Ibid.*, vol. iii., pp. 471-472. The first great work of the kind finished in the United States was the Middlesex Canal, connecting Boston Harbor with Concord River, a branch of the Merrimac, above Lowell, through Medford, Woburn, and Wilmington. It was 27 miles long and cost \$550,000. (Bishop, *History of Manufactures*, vol. ii., p. 108.)

† *American State Papers, Miscellaneous*, vol. i., p. 452.

‡ *Ibid.*, pp. 454-456.

|| *Annals of Congress*, 9th Congress, 1st session, pp. 192-197.

* Text of the report is in *American State Papers, Miscellaneous*, vol. i., pp. 432-434; *Annals of Congress*, 9th Congress, 1st session, pp. 22-25.

† For the debate see *Annals*, pp. 835-840; for text see *ibid.*, pp. 1236-1238.

‡ McMaster, vol. iii., pp. 469-471.

until February of 1807, when consideration was again put off until another session.

In February of 1807, while the bill was under discussion, the Senate passed, a resolution instructing Gallatin, Secretary of the Treasury, to report a plan for a general system of internal improvements.* He therefore collected the necessary data and on April 6, 1808, submitted his report on Roads, Canals, Harbors, and Rivers.† There was nothing new in his suggestions. He said that from Boston to Georgia the United States possessed a tide-water inland navigation which was secure from storms and attacks by enemies, but that the continuous passage by water was obstructed by the isthmus of Barnstable, by New Jersey from the Raritan to the Delaware, by the peninsula between Delaware and Chesapeake bays, and by the low marshy tract between Chesapeake Bay and Albemarle Sound. He suggested that the four obstructions be cut through by canals, which would total about 100 miles in length and cost not much over \$3,000,000.‡ He suggested also a great turnpike along the Atlantic coast from Maine to Georgia. For communication east and west and southwest he recommended that four of the great

rivers flowing into the Atlantic be improved to the head of navigation and there connected with the river system of the Mississippi Valley by four great roads over the mountains. The rivers selected were the Juniata and Allegheny, the Potomac and Monongahela, the James and Kanawha, and the Santee (or Savannah) and the Tennessee.* He said, too, that a canal should be dug around the falls of the Ohio and also around Niagara, that good roads should be constructed from Pittsburg to Detroit, St. Louis, and New Orleans, and that the Hudson should be joined with Lake Champlain and the Mohawk with Lake Ontario. The cost of this system would be \$20,000,000; but, as the Treasury was full, the United States could well afford to draw \$2,000,000 per year for ten years without inconvenience.†

But at the time this report was rendered the country was in no condition to give it just and impartial consideration. The Embargo had been in operation for several months and the supplementary acts had been passed, trade and commerce were stagnant, the Champlain region was in a state bordering on open rebellion, and the Treasury surplus was being rapidly depleted. Congress therefore took no action at that time, but the Vice-

* For the debate see *Annals*, 9th Congress, 2d session, pp. 55-60, 79-90, 95, 97. See also Sargent, *Life of Clay*, p. 27.

† *American State Papers, Miscellaneous*, vol. i., pp. 724-921.

‡ McMaster, vol. iii., pp. 473-474; Adams, *United States*, vol. iv., pp. 364-365.

* McMaster, vol. iii., p. 474.

† *American State Papers, Miscellaneous*, vol. i., p. 740. Stevens, *Albert Gallatin*, pp. 300-301; Bolles, *Financial History*, pp. 210-211; Bishop, *History of Manufactures*, vol. ii., pp. 127-129.

President and Speaker were deluged with petitions from the various companies to be affected by this proposed undertaking. Accordingly, on February 9, 1810, during the second session of the Eleventh Congress, the House appointed a committee of 20 members which subsequently reported a bill providing that the Government should buy one-half of the capital stock of any company which had been or which might be chartered to dig any of the canals or build any of the roads suggested by Gallatin. This bill failed to pass and Congress took no further action in the matter.

One of the most importunate of the States that begged aid of the Federal Government was New York, which having been aroused to activity by Gallatin's report, appointed a commission on March 15, 1810, to explore a route for a canal to connect the Hudson with Lakes Erie and Ontario.* The commission reported early in 1811, and on April 8, 1811, an act was passed providing for the improvement of the internal navigation of the State and naming nine canal commissioners,† who were also to secure the coöperation of Congress‡ and of the neighboring States. But the States did not give encouraging answers and

Congress declared that the condition of the country was such that it would be highly improper to grant lands or money for the purpose of building canals.* The project therefore dropped out from public discussion for several years, though Clinton never lost sight of it and ultimately brought about legislation for the construction of the canal.†

At this time also Pennsylvania took up the subject of better roads, chiefly because of the efforts of William J. Duane. Pittsburg had become the busiest city in the Ohio Valley; it was the center of western navigation and of western and southwestern trade, but the State had been entirely indifferent to the importance of fostering this trade by constructing better means of ingress and egress. In 1811 Duane therefore published a series of letters in the *Aurora* calling attention to the negligence of the legislature in this direction. He said that this was causing the great emigration of Pennsylvanians to the West and allowing Pittsburg to be outstripped by many other cities. His appeal was not made in vain, as in April of 1811, the Legislature appropriated \$825,000, of which \$200,000 was for a turnpike in Erie County from Waterford to Northumberland, \$350,000 for a turnpike between Harrisburg and Pittsburg, and \$250,000 for bridges over

* Roberts, *New York*, vol. ii., p. 531.

† Gouverneur Morris, DeWitt Clinton, Peter B. Porter, Robert R. Livingston, Robert Fulton, Thomas Eddy, Stephen Van Rensselaer, William North, Simon De Witt.

‡ For their application to Congress see *American State Papers, Miscellaneous*, vol. ii., pp. 165-166.

* See the report of the committee in *American State Papers, Miscellaneous*, vol. ii., pp. 178-179.

† Lamb, *City of New York*, vol. ii., pp. 577-580; McMaster, vol. iii., pp. 478-481.

the Susquehanna at Harrisburg, Columbia, Northumberland and McCall's Ferry.*

While this agitation for better roads and waterways continued, another factor was coming to the fore which was destined to revolutionize trade, commerce and navigation the world over. This was the steamboat. That such a means of travel was practicable had many times been demonstrated — by James Rumsey on the Potomac,† by William Longstreet on the Savannah, by John Fitch on the Delaware and elsewhere,‡ by Oliver Evans on the Schuylkill,|| by John Stevens on the Hudson in 1804,§ by Elijah Ormsbee, Samuel Morey, and others. All that was needed to make these ventures successful was money and patience, but both were lacking; and for several years after these men had failed in their attempts at steam navigation little was heard of this means of transportation. It remained for Robert Fulton to correct the mistakes of his predecessors and to demonstrate that steam-propelled vessels were perfectly feasible. This he did in the summer of 1807.

Three or four years previously, Fulton, in connection with Chancellor Robert R. Livingston, American min-

ister to France, had made a successful experiment with a boat he built on the Seine.* On returning to the United States (December 13, 1806) Fulton began the construction of the *Clermont*, a vessel 130 feet long and 18 feet wide, provided with mast and sail, and decked over a short distance at stem and stern. This vessel was launched from a ship-yard in New York in the spring of 1807 and prepared for use in August of the same year.† Despite the defects and difficulties, despite the sneers of the incredulous, Fulton persevered and the *Clermont* made her first voyage from New York to Albany (145 miles) in 32 hours and returned in 30 hours.‡

This trip of the *Clermont* won for her owners, Fulton and Livingston, the exclusive right to use steam on the rivers and lakes of New York State for 20 years.|| The boat was then overhauled, almost rebuilt, and renamed the *North River*, and during the next season it ran regularly up and down the Hudson. On April 11, 1808, the New York Legislature there-

* Bishop, vol. ii., p. 99; McMaster, vol. iii., pp. 487-489; Elson, *Side Lights on American History*, pp. 87-89.

† Lamb, *City of New York*, vol. ii., p. 531.

‡ Renwick, *Life of Robert Fulton*; Knox, *Life of Robert Fulton and a History of Steam Navigation* (1886); Robert H. Thurston, *Robert Fulton, His Life and Its Results* (1891); Peyton F. Miller, *The Story of Robert Fulton* (1908); Alice C. Sutcliffe, *Robert Fulton and the Clermont* (1909); Hudson-Fulton Celebration Committee, *Hudson and Fulton: a Brief History of Henry Hudson and Robert Fulton* (1909).

|| Roberts, *New York*, vol. ii., p. 529. See also Alexander, *Political History of New York*, vol. i., pp. 75-77.

* McMaster, vol. iii., pp. 481-483.

† Elson, *Side Lights on American History*, p. 83.

‡ The first trip made by Fitch on the Delaware was on June 5, 1790, between Philadelphia and Trenton. See Bishop, *History of Manufactures*, vol. ii., p. 25.

|| Bishop, *History of Manufactures*, vol. ii., p. 91.

§ *Ibid.*, vol. ii., p. 105.

fore confirmed this monopoly and extended it to 30 years.* In 1809 a steamboat began making trips between Skeensborough and St. John on Lake Champlain; another sailed on the Raritan, and a third on the Delaware. The last was the *Phoenix* built by John Cox Stevens at Hoboken in 1806; but, prevented by Fulton's monopoly from sailing her in New York waters, Stevens ran her between Philadelphia and Trenton.† The steamer *Raritan* ran from New Brunswick to New York, but 'as the profits went to Fulton and Livingston, who had the exclusive rights in New York waters, New Jersey attacked this monopoly and proposed several severe measures against it, but New York threatening to retaliate should the measures enacted be enforced, the subject was dropped.‡ Soon after a rival boat, the *Hope*, appeared on the Hudson, but Fulton and Livingston secured an injunction against her. In October of 1811 the first steamboat west of the mountains went down the river from Pittsburg to New Orleans.|| In 1812 steam ferryboats came into use, one (owned by Fulton and Livingston) plying between New

York and Paulus Hook,* and another between Philadelphia and what is now the City of Camden.†

At this time, too, the country had a practical demonstration of the utility of railways. In 1807 Stephen Whitney constructed a tramway from the top of Beacon Hill, Boston, to Charles Street, in order more easily to transport gravel to the latter street, then being filled up and graded. It was a quarter of a mile in length, but, being only temporary, was soon removed. In 1809 Thomas Leiper constructed the first permanent tramway in America. He owned a quarry near Philadelphia and concluded that a railway would afford the easiest means of carrying stone to tide-water. After demonstrating the merits of tramways by a temporary track at Bull's Head Tavern, Philadelphia, he began in the fall of 1809 the construction of a track from his quarry to the nearest landing, a distance of three-quarters of a mile. Operations began in the spring of 1810 and the road continued in use for 18 years.‡ But while Leiper was the first to give a practical demonstration of tramways

* Bishop, *History of Manufactures*, vol. ii., pp. 119, 129.

† Lamb, *City of New York*, vol. ii., p. 536.

‡ McMaster, vol. iii., pp. 492-493.

|| Lamb, *City of New York*, vol. ii., p. 536. This was the *New Orleans*, 138 feet long of about 400 tons and costing \$40,000. She continued in service until 1814 when she was wrecked at Baton Rouge. See Bishop, *History of Manufactures*, vol. ii., p. 173.

* These ferryboats, like those of modern times, were constructed with side cabins, rudders at each end to avoid turning, the floating bridge or coffer to facilitate landing and contrivances to guide the boat into dock and to break the shock on reaching the bridge. (Bishop, *History of Manufactures*, vol. ii., p. 174.)

† McMaster, vol. iii., pp. 493-494.

‡ *Ibid.*, vol. iii., p. 494 and authority there cited; R. P. Robins, *A Short Account of the First Permanent Tramway in America*, in *Proceedings of the Engineers' Club of Philadelphia*, vol. v., no. v.

in America, the idea was not his originally, as Oliver Evans had declared several years before that he could drive wagons by steam on railways at the rate of 15 miles an hour. So also did John Stevens.*

Such enterprises, however, failed to attract the favorable notice of investors, who were then placing all of their surplus earnings into manufacturing plants. In order to foster domestic manufactures, Congress had early laid a tariff, and for many years hardly a session passed without some suggestion of a protective system. All classes engaged in manufacturing petitioned the National Legislature for a system of protection against foreign-made articles, the petitions coming from gun manufacturers, bottlers, iron, copper, leather, and twine manufacturers, distillers of ardent spirits, cultivators of hemp, and from other sources.† But the war that soon broke out in Europe greatly stimulated trade, and the cause for the distress of which so many had complained passed away. Customs duties did not check the importation of low-priced foreign goods, while, on the other hand, owing to the war, an enormous carrying trade came into our hands and complaints for a time ceased.‡

The official statistics of imports and exports for the years 1790 to 1815 are as follows:*

Fiscal years ending September 30.

	Imports.	Exports.
1790	\$23,000,000	\$20,205,156
1791	29,200,000	19,012,041
1792	31,500,000	20,753,098
1793	31,100,000	26,109,572
1794	34,600,000	33,043,725
1795	69,756,268	47,989,872
1796	81,436,164	58,574,625
1797	75,379,406	51,294,710
1798	68,551,700	61,327,411
1799	79,069,148	78,665,522
1800	91,252,768	70,971,780
1801	111,363,511	93,020,513
1802	76,333,333	71,957,144
1803	64,666,666	55,800,033
1804	85,000,000	77,699,074
1805	120,600,000	95,566,021
1806	129,410,000	101,536,963
1807	138,500,000	108,343,150
1808	56,990,000	22,430,960
1809	59,400,000	52,203,233
1810	85,400,000	66,757,970
1811	53,400,000	61,316,832
1812	77,030,000	38,527,236
1813	22,005,000	27,856,017
1814	12,965,000	6,927,441
1815	113,041,274	52,557,753

\$10,750,778.93; 1802, \$12,438,235.74; 1803, \$10,479,417.61; 1804, \$11,098,565.33; 1805, \$12,936,487.04; 1806, \$14,667,698.17; 1807, \$15,845,521.61; 1808, \$16,363,000; 1809, \$7,258,000; 1810, \$8,583,000; 1811, \$13,313,000. See Dewey, *Financial History*, p. 123. See also Gallatin's report of January 4, 1809, in *American State Papers, Finance*, vol. ii., p. 319.

* The annual reports are in *American State Papers, Commerce and Navigation*, vol. i., *passim*. See also the historical tables in the annual reports of the Bureau of Statistics, Department of Commerce and Labor, entitled *The Foreign Commerce and Navigation of the United States*. Statistics for certain years will be found in Bishop, *History of Manufactures*, vol. ii., pp. 81, 100, 114, 120, 129, 171, 179, 203, and in the *Annual Statistical Abstract of the United States*, published by the government.

* McMaster, vol. iii., p. 495; Bishop, *History of Manufactures*, vol. ii., p. 91.

† Bolles, *Financial History*, p. 81; Bishop, *History of Manufactures*, p. 98; McMaster, vol. iii., pp. 496-497.

‡ During the 10 years from 1801 to 1811 the customs receipts had been as follows: 1801,

But while this trade enriched certain classes and enabled Gallatin to reduce the National debt by \$24,000,000,* it tended toward other results affecting a great portion of the people. The imports bred foreign tastes, habits and ideas, with the result that for a time American manufactures were allowed to languish. In 1805-1807, therefore, the feeling became strong that it was high time some factories were set up at home. After the Embargo had been laid, a rage for manufacturing broke out all over the country. Societies for the encouragement of domestic manufactures were formed which opposed the use of foreign-made goods, offered prizes for the best articles of domestic make, and whose members pledged themselves to wear no garment the raw material of which was not grown and the fabric made in the United States. American women were called upon to discard the "gandy trappings of European luxury" for the plainer materials made by their own people.† In time the various State legislatures caught the craze, and all manner of laws were passed to encourage home production. The literature of the period was full of appeals, addresses,

and resolutions setting forth the duty of the people to encourage home industry.*

Thus stimulated, manufactures began to thrive and all kinds of factories sprang into existence from Maine to Louisiana. While the manufactures of wood and leather were the most adequate to domestic consumption, these were exceeded in value by manufactures of cotton and wool, which industries centered around the water-power sites of Massachusetts, Rhode Island and Connecticut. In 1807 there were only 15 cotton mills in the United States, using 8,000 spindles. Two years later 87 mills had been built, of which 62 (containing 31,000 spindles) were operated by water or horse-power; and more were in process of erection.‡ In 1810 about two-thirds of the clothing, hosiery, and house-linen used by country families were produced by household industry, wool being essentially a household manufacture and the spinning wheel a common accessory in the houses of farmers of the better class. Paper and printing materials were manufactured extensively in the New England and Middle States, as were also hats, bonnets and coarse articles of domestic use. The home market for malt liquors was nearly supplied by domestic brews. The metal industry had not attained

* From January 1, 1791, to January 1, 1808, the debt had fallen from \$75,169,974.21 to \$64,742,326.26. During the first ten years it had increased nearly \$7,000,000, and in the last eight years it had decreased nearly \$20,000,000 and Louisiana had been purchased. On January 1, 1812, the debt had still further decreased to \$45,154,463. See *American State Papers, Finance*, vol. ii., p. 425; Stevens, *Albert Gallatin*, pp. 209-212.

† McMaster, vol. iii., pp. 499-502.

* Bolles, *Financial History*, p. 81.

‡ Schouler, *United States*, vol. ii., pp. 244, 330; Gallatin's report on manufactures, *American State Papers, Finance*, vol. ii., p. 427; Bishop, *History of Manufactures*, vol. ii., p. 143.

prominence, chiefly because of the poor quality of the product turned out by American smelters. There was a considerable demand for Massachusetts nails, but steel cutlery came generally from Birmingham and Sheffield. Guns of good quality were made at the armories at Springfield, and Harper's Ferry. What few manufactures of copper, lead and zinc there were, languished for want of patronage.* In New York were salt, glass and iron works, paper and cotton mills, thread works, factories making cotton and woolen cloth and others devoted to the manufacture of axes, scythes and edged tools. At Philadelphia the carpet and oil-cloth industry had gained a strong foothold, and there were also factories for making vitriol, glass, paper, type, and shot. Wool-raising was the principal industry of Ohio and hemp the staple crop of Kentucky, with nine ropewalks and five cotton-bagging mills at Lexington. Boots, shoes and hats were also made in Kentucky.†

During the first and second sessions of the Seventh Congress the applications for protection rapidly multiplied.‡ The Committee of Commerce and Manufactures made a report

thereon giving a succinct history of the efforts to protect home industries. Several means of encouragement had been adopted. One was to exempt imported raw materials from taxation, as a result of which wrought iron, unwrought burrs, saltpetre, sulphur, rags, bristles of swine, and the regulus of antimony had been admitted, these exemptions being made to aid those who used these things in manufacturing other commodities. Other modes adopted were by laying higher or prohibitory duties on manufactured articles imported; by withholding a drawback from articles of foreign manufacture subsequently exported (which policy had been adopted with reference to loaf and refined sugar); and by allowing a drawback on domestic manufactures equal to the duty paid on the imported raw materials used in such manufactures. Thus a drawback was allowed on the reexportation of sugar refined from the foreign material and on rums distilled from molasses. Another means was the bestowal of bounties to fishermen engaged in curing and exporting fish.

Complying with a resolution of Congress, the Secretary of the Treasury had prepared a plan for laying new and more specific duties, this report forming the basis of the calculations of the committee.* Though a

* Schouler, *United States*, vol. ii., p. 246.

† McMaster, vol. iii., pp. 504-505. See also Bishop, *History of Manufactures*, vol. ii., pp. 141-142.

‡ Stanwood, *Tariff Controversies*, vol. i., p. 113 *et seq.* See also Bishop, *History of Manufactures*, vol. ii., pp. 92, 103, 130, and *passim*; *American State Papers, Finance*, vol. ii., pp. 22, 61; *Annals of Congress*, 7th Congress, 2d session, pp. 1238-1239, 1281-1283, 1288-1289.

* See the report of the committee, presented January 25, 1804, *American State Papers, Finance*, vol. ii., pp. 80-81; *Annals of Congress*, 8th Congress, 1st session, pp. 946-949.

duty of $12\frac{1}{2}$ per cent. had previously been levied, the committee recommended that rags of linen, cotton, woolen and hempen cloth, regulus of antimony, bristles of swine, saltpetre, unwrought burr-stones, and the bark of the cork-tree be admitted free of duty. The duty on brushes and black bottles was raised from $12\frac{1}{2}$ to 25 per cent.; on fur hats and plated ware from 15 to 20 per cent.; and on window-glass, stone-ware and cannon-balls, from 15 to 25 per cent. The duty on foreign pickled and dried fish, which had been $12\frac{1}{2}$ per cent. *ad valorem* was changed to \$1.50 per barrel for the former and \$1 per quintal for the latter. Instead of the duty of 15 per cent. *ad valorem* on starch, hair-powder and glue, a duty of three cents per pound was placed on the first and four cents on the last two. On printed calicoes and gun-powder the duty was to be raised from $12\frac{1}{2}$ to 15 per cent. The duties on tarred cordage and cables were changed from \$1.80 per hundred to 2 cents per pound and on untarred cordage from \$2.25 per hundred to $2\frac{1}{2}$ cents per pound. A duty of 50 cents apiece was recommended for umbrellas; 3 cents per pound for soap and tallow candles; $2\frac{1}{2}$ cents for spikes and iron bolts, and 2 cents for anchors. The report of the committee was adopted and thus Congress signified a desire to encourage the growth and development of home industries.*

When the Embargo was lifted and the announcement made that after June 10, 1809, trade with England would be renewed, many manufacturers demanded protection, as labor and raw material in England were so cheap and English capital so powerful that competition was not to be thought of. The hemp growers of Kentucky in particular protested that their staple industry had been left completely exposed to foreign competition, and on June 7, 1809, petitioned Congress for relief.* But the Committee on Manufactures ignored her protest and recommended that only the following additional duties be laid: $2\frac{1}{2}$ per cent. *ad valorem* on ready-made clothing and millinery, bedticking, corduroys, fustians, and cotton manufactures from beyond the Cape of Good Hope; one-half cent per pound on shot and any other manufactures in which lead was the article of greatest value; and 8 cents per bushel on salt.†

However, as the committee had nothing definite on which to base their contentions regarding the industries to be protected, Bacon, of Massachusetts, on May 31, 1809, during the first session of the Eleventh Congress in-

* Stanwood, *Tariff Controversies*, vol. i., p. 117; Bishop, *History of Manufactures*, vol. ii., pp. 138-139. Stanwood mentions many other petitions. The petition is in *American State Papers, Finance*, vol. ii., pp. 367-368; *Annals of Congress*, 11th Congress, 1st session, pt. ii., pp. 2170-2173.

† *Annals of Congress*, 11th Congress, 1st session, pt. i., pp. 363-365; McMaster, vol. iii., pp. 505-506; Bishop, *History of Manufactures*, vol. ii., p. 139.

* Bolles, *Financial History*, pp. 82-85.

roduced a resolution in the House calling upon Gallatin for a report regarding the existing state of manufactures in the United States.* Collecting such information as he could, Gallatin submitted his report on April 17, 1810, to the second session of the Eleventh Congress. According to his estimate, the value of manufactures in the United States was \$127,694,602, of which sum \$39,497,057 consisted of textile goods, (cotton, silk, wool, flax, and hemp); \$17,935,477 of hides and skins; \$16,528,207 of distilled and fermented liquors; \$14,364,526 of iron and its manufactures; \$6,144,466 of instruments and machinery; \$5,554,708 of manufactures of wood; \$4,323,744 of hats of wool, fur, etc.; and \$4,243,168 of cables and cordage. Pennsylvania produced the greatest value, \$32,089,130; next came Massachusetts, \$17,516,423; New York, \$14,569,136; Virginia, \$11,447,605; Maryland, \$6,553,597; Connecticut, \$5,900,560; North Carolina, \$5,323,322. Louisiana was the lowest with only \$34,657.† Articles manufactured from raw materials produced in the United States considerably exceeded the domestic demand and were exported in small amounts annually, as were cards for dressing wool, cot-

ton, and cut nails. In several other branches of manufacture — such as ironware, glass, textile goods, hats, ropes, fermented and distilled liquors, etc.—the home supply was gradually meeting all demands, and the quantity imported was continually diminishing.* This was especially the case with cotton, linen and woolen goods, the manufacture of which had received much more attention, since the European war had raised the price and since there was so much trouble in procuring them from Great Britain and France. Gallatin said, however, that these figures were defective as the report was hastily made, and he suggested that in the next census such information should be collected in detail. Congress thereupon passed a law which was approved May 1, 1810, by which the marshals and their deputies were ordered to collect statistics regarding manufacturing establishments in their districts and report to the Secretary of the Treasury.† In his report Gallatin substantially echoed Hamilton's recommendations regarding the protection and encouragement of manufactures. He said:

“Occasional premiums might be beneficial; but a general system of bounties is more applicable

* Stanwood, *Tariff Controversies*, vol. i., pp. 117-118.

† *American State Papers, Finance*, vol. ii., pp. 425-439; *Annals of Congress*, 11th Congress, 2d session, pt. ii., pp. 2223-2253; Wright, *Industrial Evolution of the United States*, pp. 137-138; Bishop, *History of Manufactures*, vol. ii., pp. 161-163.

* Bishop, *History of Manufactures*, vol. ii., p. 146 *et seq.*

† Bishop, *History of Manufactures*, vol. ii., pp. 159-160. The facts then gathered were given in 1812 to Tench Coxe for classification and his report was submitted to Congress January 15, 1814. See *American State Papers, Finance*, vol. ii., pp. 666-812; *Annals of Congress*, 13th Congress, 2d session, pp. 2570-2642.

to articles exported than to those manufactured for home consumption. The present system of duties may in some respects be equalized and improved so as to protect some species of manufactures without affecting the revenue. But prohibitory duties are liable to the treble objection of destroying competition, of taxing the consumer, and of diverting capital and industry into channels generally less profitable to the nation than those which would have naturally been pursued by private interest left to itself. A moderate increase will be less dangerous, and, if adopted, should be continued through a certain period; for the repeal of a duty once laid, materially injures those who have relied on its permanency, as has been exemplified in the salt manufacture.*

The principal hindrance to the spread of manufactures in his opinion was lack of capital and he suggested that the United States create a circulating stock at a low rate of interest, and lend it at par to manufacturers.† Congress, however, did nothing for the protection of the nation's infant industries.

Meanwhile the Bank of the United States had gone out of existence. This institution now formed an important piece of the financial machinery of the government, for which reason Gallatin strongly favored a renewal of the charter, although a very large portion of his party opposed it. As the charter was to expire during the last session of the Eleventh Congress, public interest required that Congress decide upon the question of re-chartering some time in advance, so that, if a new charter were refused, the Treasury

might not be suddenly crippled or a general bankruptcy be risked without notice. Accordingly, on January 29, 1810, during the second session of the Eleventh Congress, the subject was referred to a special committee which, on February 19, reported a resolution favoring the continuation of the Bank.* On April 7 John Taylor, of South Carolina, introduced a bill granting a new charter on condition that the Bank increase its capital \$2,500,000, of which half should be paid outright to the Government; that the bank pledge itself to loan the Government at three months' notice any amount up to \$5,000,000 at not more than 6 per cent.; that the bank should pay 3 per cent, on government deposits above \$3,000,000 remaining on deposit for one year; and that the Government might have the right at any time to increase the capital stock and to subscribe and own the new stock to a fixed amount. No serious opposition being shown, the House on April 21, 1810, by a vote of 75 to 35, voted to accept the price fixed for the charter, but the session ended without further action.†

Thus the question drifted on the tide of uncertainty until Congress met again in December of 1810, when the

* *American State Papers, Finance*, vol. ii., p. 430.

† Stanwood, *Tariff Controversies*, vol. i., pp. 118-119.

* *American State Papers, Finance*, vol. ii., p. 406; *Annals of Congress*, 11th Congress, 2d session, pt. ii., p. 1413; Benton, *Abridgment*, vol. iv., pp. 215-216.

† *Annals*, pt. ii., pp. 1762-1763, 1795-1817, 1934-1944; Adams, *United States*, vol. v., pp. 207-209.

decision could no longer be delayed as the charter expired March 4, 1811.

The discussion was opened on December 18, 1810, when the president, directors and stockholders of the Bank laid a memorial before the Senate asking that the Bank charter be renewed.* The memorial was sent to a select committee for consideration and recommendations. This committee applying to Gallatin for information, he presented a report showing that the Bank had been wisely and skilfully managed.† The capital stock of the Bank was \$10,000,000; it held \$8,500,000 of deposits (governmental and private); and had issued \$5,000,000 of notes. Its outstanding accounts amounted to \$18,700,000; it had on hand \$5,000,000 in specie, and owned \$500,000 in lands and buildings. There was thus a balance for contingencies of over \$500,000. The Secretary proposed that the charter be renewed and that the capital of the Bank be increased to \$30,000,000; but deeming some of the objections to the continuance of the institution under its existing charter of great weight, he specified certain conditions which he thought should be attached to the renewal.‡ He thought, too, that the

Bank should be bound to lend three-fifths of its capital to the government whenever required to do so and that it should pay interest on all government deposits exceeding \$3,000,000. Of the new capital, he recommended that \$15,000,000 be subscribed by such States as might desire it and that a branch be established in each subscribing State, if requested.*

On January 4, 1811, the select committee of the House (of which William A. Burwell, of Virginia, was chairman), reported a bill to renew the charter.† On the 16th this bill was taken up in Committee of the Whole and a long, able and bitter debate followed. John W. Eppes, Adam Seybert, Robert Wright, William T. Barry, Joseph Desha, Burwell, Nathaniel Macon, Peter B. Porter, and others opposed the bill, while Jonathan Fiske, Philip B. Key, David S. Garland, Willam Findley, Benjamin Tallmadge and Samuel McKee were among its advocates.‡ Probably none stated the reasons for re-chartering with more ability and lucidity than Fiske. He said that the destruction of the Bank would result in retiring a large portion of the circulating medium of the country. This was estimated at \$50,000,000 of which at least \$24,000,000 would be called in if the charter were not renewed — which

* *American State Papers, Finance*, vol. ii., pp. 451-452; *Annals of Congress*, 11th Congress, 3d session, pp. 21-25.

† *American State Papers, Finance*, vol. ii., pp. 301, 417-418, 468-470, 481; *Annals of Congress*, 10th Congress, 2d session, p. 456. See also Adams, *Lives of Madison and Monroe*, pp. 141-142; White, *Money and Banking*, p. 262.

‡ Stevens, *Albert Gallatin*, p. 261 *et seq.*

* White, *Money and Banking*, pp. 263-264.

† *Annals of Congress*, 11th Congress, 3d session, p. 488 *et seq.*

‡ Adams, *Lives of Madison and Monroe*, pp. 142-143.

would inevitably give a general and heavy shock to all paper credit. What could be substituted? There was not enough gold and silver, and the \$10,000,000 in specie throughout the country would be gathered in by the Bank. Again, if the Bank were destroyed, how were the revenues to be collected — through the medium of the State banks? “You discard a faithful, honest, responsible agent,” said Fiske, “whose integrity and fidelity you have known for twenty years, and you place your estate in the hands and at the disposal of twenty and thirty entire strangers, of whose character and responsibility you know nothing, nor have the means of acquiring any knowledge, and over whose conduct you have no control. Should an individual act thus with his property, he would be deemed to have lost all regard for it, if not considered a madman.” Again, the difficulty of finding a convenient medium to transmit from one portion of the country to another was pointed out. “Carolina and Kentucky bills are unknown and would not pass in New York or Boston; and New York bills would not pass in Kentucky or Carolina. New England bills do not pass in New York but at a considerable discount. But under the present system, if the government have five millions deposited in Boston, and it is required to be paid at New Orleans, a draft is given by the Branch in Boston upon that in New Orleans, and the money is paid in the latter place as soon as the mail

can travel there.”* The debate in the House lasted many days. Madison held aloof, leaving the brunt of the struggle to Gallatin; but Gallatin’s influence could do little with the Eleventh Congress. When at last, on January 24, a vote was reached, the whole subject was indefinitely postponed by a vote of 65 to 64, many of Gallatin’s best friends voting against renewal, while the Federalists voted solidly in favor of it.† The debate was thus transferred to the Senate.

The Senate committee (of which William H. Crawford, of Georgia, was chairman) introduced a bill on February 5 to renew the charter.‡ When Anderson, of Tennessee, moved to strike out the first section, an animated debate sprang up. On February 11 Crawford defended the constitutionality and expediency of the measure and indignantly repelled the charge of apostasy made against him by some of the Democratic Senators.|| He was warmly supported by Richard

* For the entire speech of January 17, 1811, see *Annals of Congress*, 11th Congress, 3d session, pp. 600-617; Benton, *Abridgment*, vol. iv., pp. 338-343. See also Bolles, *Financial History*, pp. 147-150; Adams, *United States*, vol. v., pp. 329-330.

† For the debate see *Annals of Congress*, 11th Congress, 3d session, pp. 617-625, 627-646, 651-826; Benton, *Abridgment*, vol. iv., pp. 343-351. See also Bolles, *Financial History*, pp. 150-151; Adams, *United States*, vol. v., p. 331; Adams, *Lives of Madison and Monroe*, pp. 142-143.

‡ *Annals of Congress*, 11th Congress, 3d session, p. 122.

|| For his speech, see *Annals*, pp. 134-150; McMaster, vol. iii., pp. 386-387; White, *Money and Banking*, pp. 266-268; Adams, *United States*, vol. v., pp. 332-333; K. C. Babcock, *Rise of American Nationality*, p. 6 *et seq.*

Brent, of Virginia, and John Pope, of Kentucky (both of his party); and by James Lloyd and Timothy Pickering, of Massachusetts, and John Taylor, of South Carolina. In opposition to the renewal of the charter, Henry Clay distinguished himself, as did also William B. Giles and Samuel Smith.* Giles answered Crawford in the manner for which he had acquired unpleasant notoriety. Never before had he taken more trouble to be judicial, candid and temperate, and no one could have admitted with greater impartiality of an opponent's arguments than did Giles; but his instincts, stronger than his logic, forced him to vote against the Bank.† In charging avarice and ambition to the opponents of the Bank, Crawford had in mind Samuel Smith, particularly since Smith's action was avowedly controlled by his interests and he was notoriously selfish and grasping. In pledging his character as a merchant that State banks were better, safer, and more efficient than the Bank of the United States, Smith said: "The secretary is considered by his friends a very great man in fiscal operations; in commercial matters I may be permitted to have opinions of my own." As a commercial authority, he then stated that the Government could exercise greater control over State banks than over the United States Bank; that more confidence could be

placed in their security; that the necessary exchanges could more easily be effected by them; that they were more conservatively conducted; that they acted as a check upon the Bank; that they could as effectually and securely perform the ordinary and extraordinary business of the Treasury; and that the liquidations of the United States Bank would be remembered "nine days and not much longer."‡ Clay argued as follows:

"What is a corporation such as this bill contemplates? It is a splendid association of favored individuals taken from the mass of society and invested with exemptions and surrounded with immunities and privileges. * * * I contend that the States have the exclusive power to regulate contracts, to declare the capacities and incapacities to contract, and to provide as to the extent of responsibility of debtors to their creditors. If Congress have the power to erect an artificial body, and say it shall be endowed with the attributes of an individual—if you can bestow upon this object of your own creation the ability to contract, may you not in contravention of State rights, confer upon slaves, infants, and *femes covert*, the ability to contract? And if you have the power to say that an association of individuals shall be responsible for their debts only in a certain limited degree, what is to prevent an extension of a similar exemption to individuals? Where is the limitation upon this power to set up corporations? You establish one, in the heart of a State, the basis of whose capital is money. You may erect others whose capital shall consist of slaves, and personal estate, and thus the whole property within the jurisdiction of a State might be absorbed by these political bodies. The existing Bank contends that it is beyond the power of a State to tax it, and if this pretension be well founded, it is within the power of Congress, by chartering companies, to dry up the whole of the sources of State revenue."§

* Adams, *United States*, vol. v., pp. 335–336.

† *Annals of Congress*, 11th Congress, 3d session, p. 209 *et seq.* See also the version in McMaster, vol. iii., pp. 388–389; Schurz, *Life of Clay*, vol. i., pp. 64–66.

* Adams, *Lives of Madison and Monroe*, p. 143.

† For his speech, see *Annals of Congress*, 11th Congress, 3d session, pp. 175–208. See also Adams, *United States*, vol. v., p. 333.

The debate continued several days, closing with a speech by Crawford in which he completely answered Clay.* On February 20 the question was taken and resulted in a tie vote (17 to 17), Lloyd, Pickering and Brent voting in favor of the bill, in direct opposition to the instructions of the legislatures of Massachusetts and Virginia. It was then incumbent upon the Vice-President, George Clinton, to cast the deciding vote, and, alleging that Congress did not possess power to establish a National bank, he cast his vote in favor of striking out the first section of the bill.†

In his response to the call of the Senate committee, Gallatin had stated that, unless the charter were renewed, the government must resort to State banks and local banks, whose credit could not be general and whose notes might in consequence vary in value in different parts of the Union.‡ In advocating the renewal of the charter, Fiske, of New York, urged that trouble would follow any attempt to use State banks for the purpose of the Government. The revenue collected in each State must be given to one bank in that State or divided among them all; otherwise favoritism

would be charged.* Argument and entreaty were unavailing, and even a temporary extension of the Bank's existence could not be secured. After a fruitless effort to obtain a charter from the Pennsylvania Legislature, the struggle for existence was abandoned and the affairs of the Bank were placed in the hands of trustees for final settlement.†

The labor question was also of prime importance in the economic situation. The rate of wages was different in the various sections of the country, laborers being paid highest in the northern belt from Massachusetts west to Ohio, while the lowest rates prevailed in the southern belt from the Carolinas to Louisiana. Again, the rates in each of these belts varied, the lowest rates prevailing on the Atlantic coast and gradually rising as the interior was reached. The rates varied, too, with the season of the year, being low in winter and high in summer, reaching the highest point during harvest time. In eastern Massachusetts laborers were paid an average of \$7 per month in summer and \$10 per month in winter. In the western part of the State these wages rose to \$9, \$10, and \$12 per month; at Catskill, New York, they were \$13, at Hudson, New York, \$14 (without

* *Annals*, p. 330 *et seq.*

† *Annals*, pp. 346-347; Adams, *Lives of Madison and Monroe*, pp. 143-144; McMaster, vol. iii., p. 390; Bolles, *Financial History*, p. 151; Babcock, *Rise of American Nationality*, pp. 7-10; White, *Money and Banking*, p. 269; Adams, *United States*, vol. v., pp. 336-337.

‡ *American State Papers, Finance*, vol. ii., p. 481.

* *Annals of Congress*, 11th Congress, 3d session, p. 607.

† On June 1, 1812, a dividend of 70 per cent. was declared; 18 per cent. more on October 1, 1812; 7 per cent. on April 1, 1813; and 5 per cent. on April 1, 1815 and December 1, 1817. (McMaster, vol. iii., p. 390, note.)

board). In the lake section the wages were not uncommonly \$1 per day. In central Pennsylvania the pay averaged \$8 per month for farm hands, when fed and housed, while on the Ohio and the Mississippi the boat hands received \$1 per day (with board in some cases).^{*} Between the years 1790 and 1830 there was a fair advance of wages in a number of industries. In 1790 carpenters were paid on the average less than 60 cents per day; in 1800 a little over 70 cents; in 1810 about \$1.09; in 1820, \$1.13; and in 1830 about the same, though in the next decade the average rose to about \$1.40. Printers received about \$1 per day in 1790; but the increase was very gradual and by 1860 they were receiving only \$1.75. Shoemakers received 73½ cents per day in 1790, which rate had increased to \$1.06 by 1830 and to \$1.70 by 1860. In 1790 laborers received an average of 43 cents per day; in 1800, 62½ cents; in 1810, 82 cents; in 1820 a little over 90 cents and during 1840 to 1860 from 87½ cents to \$1 per day. The wages of cotton mill operatives were not quoted much prior to 1820, but in that year the average was about 44 cents per day; and between 1830 and 1840 was nearly 90 cents. Statistics of woolen mills were equally meagre and not until 1830 do reports become fairly complete. Between 1820 and 1830 the average seems to have been about \$1.12.† Between 1800 and 1810

the spread of population, the increase of farms, and the fact that large numbers of men went into the merchant marine tended to raise the wages of unskilled labor, the rates often being from \$1 to \$1.33 per day.

As the wages of skilled labor did not experience a corresponding increase, the labor organizations resolved to strike. At that time the labor organizations were mostly benevolent societies, whose number increased rapidly during the decade from 1800 to 1810, 24 of them having been incorporated in New York alone. Probably the most widely known were the Albany Mechanical Society, the New York Masons Society, the Franklin Typographical Society, the New York Society of Journeymen Shipwrights (incorporated April 3, 1803), the General Society of Mechanics and Tradesmen of the County of Kings, the Catskill Mechanical Society, the Journeymen Cordwainers of New York City, the House Carpenters of the City of New York (created in 1806).^{*} At Philadelphia were the Typographical Society, the Asylum Company of Journeymen Printers, the Society of Hatters, and the Journeymen Cordwainers. At Baltimore was the Society of Journeymen Tailors.†

^{*} Wright, p. 233.

† McMaster, vol. iii., pp. 510-511. Bishop (*History of Manufactures*, vol. ii., pp. 164-165) says there were numerous mutual benefit societies or associations of the various classes of mechanics and tradesmen who, from a common fund, aided in supporting the sick and needy. Among those at Philadelphia were The Carpenters' Society, the

^{*} McMaster, vol. iii., pp. 509-510.

† Wright, *Industrial Evolution of the United States*, pp. 216-217.

These associations had many times attempted to raise the wages of their members and had almost succeeded. The journeymen tailors struck in 1795 and in 1805, succeeding both times in forcing up wages. Almost at the same time the journeymen cordwainers of Philadelphia struck, but the employers resisted the demands of the strikers, who were arrested for conspiracy and brought to trial. Despite the fact that Duane's journal, the *Aurora*, espoused the cause of the strikers and endeavored to influence public opinion in their favor, the strikers were convicted. Thereupon they immediately opened a boot and shoe warehouse of their own and appealed to the public for support. In May of 1796 the journeymen shoemakers of Philadelphia struck to secure an increase of wages, in which they were successful. Two years later another strike was ordered and this too was successful. In 1799 the shoemakers turned out to resist a movement made by the master cordwainers of Philadelphia for a reduction of wages, but though the strike lasted for ten weeks, it was only partially successful. The first notable strike occurred in November of 1803,*

oldest, founded in 1724; the Typographical Society, the Provident Society of House Carpenters; Master Mechanics' Benevolent Society; the Stonecutters' Company; and similar societies of Shipmasters, Pilots, Mariners, Master Bricklayers, Hair Dressers, Surgeon Barbers, Master Tailors, Cordwainers, Journeymen Blacksmiths, Journeymen Tailors, Hatters, Master Coopers and Journeymen Coopers.

* McMaster, vol. ii., p. 618, says the strike

when the sailors in New York attempted to raise their wages from \$10 to \$14 per month. The sailors formed in a body, marched through the city, and compelled other seamen who were employed at the old rates to join the strike. The strikers were pursued and dispersed by the constables, who arrested the leader and lodged him in jail, the strike thus terminating unsuccessfully.* In 1808 the journeymen tailors at Baltimore struck for higher wages but in the end this was compromised. In October of 1809 the cordwainers of New York went on strike because an employer had refused to discharge a member of the society who had broken one of its rules. A strike being then declared, the employer sent his work to other shops. When the journeymen learned of it, a general strike of nearly 200 men was ordered. The strikers were then arrested and when the trial was finally held before the mayor's court in July of 1810 the journeymen were found guilty, admonished by the mayor, and fined \$1 each with costs.† Outside of the large cities, however, skilled workmen were not so numerous, and not being organized into such societies, could not force their employers to pay higher wages.

The sentiments of the people regarding slavery had undergone a

occurred in October, 1802, but the above date seems to be correct.

* Wright, *Industrial Evolution of the United States*, pp. 294-295.

† McMaster, vol. iii., pp. 511-513.

great change during the past five years. According to the census of 1810, there were 1,377,808 persons of color in the United States, of whom 1,191,300 were held in bondage. While as a whole the colored race had not doubled during the previous twenty years, the number of free blacks had more than trebled, owing to acts for gradual emancipation and private manumission. In 1810 four States (Massachusetts, Vermont, New Hampshire and Ohio) were wholly free; while gradual emancipation had caused slaves almost entirely to disappear from Rhode Island, Connecticut, and Pennsylvania, their numbers having greatly diminished also in New York, New Jersey and Delaware. Of all the States Virginia had the greatest slave population, and in South Carolina and Georgia there were nearly as many blacks as whites. During the past twenty years the ratio of slave population had greatly decreased in North Carolina; in Louisiana where the blacks outnumbered the whites by 8,000; but in Kentucky and Tennessee about four-fifths of the population were white.

The condition of slavery depended upon the status of the mother; if she were free her children were free; but if bond they were bond also. Socially the free blacks considered themselves above the slaves, and native-born slaves above those imported from Africa. While as a rule the slaves were dull and ignorant, still they exhibited an attachment almost canine

towards a kind master or mistress; they seemed to take great pride in the family establishment of which they constituted a part. In the far South a white servant was rarely seen, for those who could not afford to buy slaves would hire them, proprietors in the large towns reaping considerable profits by letting out their slaves to work by the month or quarter.

Most of the Southern codes contained humane provisions concerning the treatment of slaves, but so loosely were these construed that the real criterion of justice was the master's conscience. Several of the States provided that the wilful and malicious killing of a slave was murder, but this did not apply to the accidental killing when inflicting chastisement or to killing a slave who rose against his master. On the other hand, a slave who killed his master or overseer or rose in rebellion was liable to instant death. Bondsmen were restrained from holding meetings for religious worship or mental instruction, from attending theatres and from mingling with free blacks. At Charleston a military patrol went the rounds and negroes found in the streets after the evening drum-beat were put in jail.*

Little mercy was shown to the run-away slave. Many advertisements were inserted in the newspapers offering rewards for the apprehension of fugitive slaves and giving some

* Hurd, *Law of Freedom and Bondage*.

mark of mutilation by which they might be identified, since slaves were often punished by branding, croaking, ironing and shooting. On December 10, 1784, appeared an advertisement in the *South Carolina Gazette* offering rewards for two slaves who had run away from J. W. Gibbs, of Charleston:

"FIFTY DOLLARS REWARD. Ran away from the subscriber on Sunday morning a short yellow wench named Sall, well known in this city; had on a blue woolen jacket and petticoat. Also ran away last night a Negro Fellow named Will, husband of the above wench, who took with him all the remainder of her clothes, and several suits of his own; among the latter were a pair of black velvet breeches and waistcoat, pair of white dymity corded breeches, and two or three silk waistcoats, two or three pairs of linen overalls, a cinnamon-colored broadcloth coat with a double row of white plated buttons on the breast, a Saxon green superfine broadcloth coat, almost as good as new, with white plated buttons, a drab colored great coat with plated buttons, a small round hat with a black band and plated buckle, with a number of other clothes which cannot be remembered; also two new and four old blankets. These Negroes were absent once before for three years, a great part of which time they were in the employment of a Mr. Stirk, in Georgia, from whence they were brought back a twelve month ago in rags. During their stay there they acquired a great number of acquaintances with Negroes run away from this State, many of whom are now in this City, and it is supposed are harbourers of them."*

On April 7, 1774, a notice was inserted in the *Virginia Gazette* by Nathaniel Burwell:

"Ran away in July last, Matt, a tall slim Negro Man, by trade a carpenter, and about forty years old; he walks badly, having been Frosted in Prison some years ago, by which he lost one of his great Toes and the Print of the Irons he

then had on may be seen plainly on his legs. Whoever delivers him to me shall receive 3*l*. reward if taken within twenty miles of my House, and 5*l*. if at a greater Distance."*

On December 4, 1767, Henry Randolph advertised in the *Virginia Gazette* as follows:

"Ran away from the subscriber a Mulatto Fellow named Aaron, about 5 feet, 10 inches high, about 19 years old, and marked on each cheek, I. R."†

On February 24, 1804, a reward is offered in the *Washington Intelligencer* for a dark mulatto, about twenty years of age, a shoemaker by trade:

"He is an artful, cunning fellow; reads his Testament tolerably well, and plays occasionally upon the fife; is pert and saucy, has a vast share of pride, thinks highly of himself; very tenacious of his opinions, never in the wrong, and will chatter and dispute from sun to sun rather than confess a fault. He is smart and active, talks quick, and by his high pert manner makes himself easily distinguished."

At times owners offered rewards for runaways dead or alive, the rewards to be paid if satisfactory evidence were given that such runaways had been killed, if they were not returned. Some of the runaways merely took to the woods for a vacation and returned to their work of their own accord at the end of the outing, though sometimes the return was hastened by the noise of blood-hounds in the neighborhood. Others endeavored to establish the fact that they were free, and often octoroons attempted to pass as white persons

* U. B. Phillips, *Racial Problems, Adjustments and Disturbances*, in *The South in the Building of the Nation*, vol. iv., p. 204.

* Phillips, p. 205.

† *Ibid.*, p. 205.

and to work their way in some fashion north of the Mason and Dixon line. Others became desperadoes and held localities in terror until raiding parties were sent against them. On June 15, 1830, the following advertisement appeared in the *Louisiana Courier*:

"Fifty dollars reward will be paid for the apprehension of the negress slave named Anny, aged about fifteen years, having a mark of a scald or burn on each shoulder. Said slave ran away from the residence of the subscriber in the suburb of Marigny on the night of the 11th inst., and took with her \$300 in notes of the different banks of this city. The above reward will be given for the apprehension of the said slave and return [of] the money; or \$10 for taking up the slave, should the money not be found. All persons are warned under the penalties prescribed by law, for harbouring said slave. Antonio Acosta."*

That the slave owners were confronted with a hard problem cannot be doubted. An unfruitful servant could not be discharged and reprimands were likely to be useless, or worse than useless. Some slaves were beaten, some were cajoled, but with most some middle course of treatment was followed. On the whole, a great deal of poor service was put up with. The legislatures could theorize as they pleased and suffer no personal discomfort, but day after day, year after year, in good times and in bad, in serenity or in stress, the slave holders in private life had to make shift to get along with their slaves. A West Indian planter wrote in his diary April 22, 1817:

"Cubina is now twenty five, and has all his life been employed about the stable. He goes out with my carriage twice every day; yet he has never been able to succeed in putting on the harness properly. Before we get to one of the plantation gates we are certain of being obliged to stop and put something or other to rights. * * * A girl, whose business it is to open the house each morning, has in vain been desired to unclose all the jalousies; she never fails to leave three or four closed, and when scolded for doing so, she takes care to open those three the next morning, and leaves three shut on the opposite side. Indeed the attempt to make them correct a fault is quite fruitless."*

Slave auctions were common and were primarily due to the death of the owner and the subsequent division of the property among the heirs, the seizure of slaves to satisfy a mortgage or a debt, the need of ready money, the worthless character of the negroes as laborers, a disposition to run away or because such slaves had been raised for market. Consideration was often shown in the selling of slaves as is illustrated by the following advertisement in the *Augusta [Ga.] Chronicle*, September 2, 1809:

"For sale, a likely Negro Fellow, sober and honest; he is a tolerable carpenter, a good cooper, and can make negro shoes, and in many respects is very useful on a plantation; he is used to the upper country and does not like to live in the lower country, for which reason only he is to be sold."†

On August 15, 1818, appeared the following news-item in the *Virginia Northwestern Gazette*:

"Winchester, July 11. Several wretches whose hearts must be as black as the skins of the unfortunate beings who constitute their inhuman

* Phillips, *Racial Problems*, p. 227.

* M. J. Lewis, *Journal of a West India Proprietor*.

† Phillips, *Racial Problems*, p. 203.

traffic, have for several days been imprudently prowling about the streets of this place with labels in their hats, exhibiting in conspicuous characters the words 'Cash for Negroes!'"*

One auctioneer requests attendance at the court-house in Columbia, South Carolina, as he is about to sell 100 valuable negroes among whom were "25 prime young men, 40 of the most likely young women, and as fine a set of children as can be shown." One firm at Natchez advertised "fresh arrivals weekly" and promised to keep constantly "a large and well selected stock." A competitor of this firm in the same city announced, "ninety negroes just arrived from Richmond consisting of field hands, house servants, carriage drivers, several fine cooks and some excellent mules and one very fine riding horse." A New Orleans auctioneer announced the sale of three splendid paintings, also "Delia, aged seventeen, a first-rate cook; Susan, aged sixteen, a mulatress, a good house-girl; Ben, aged fourteen, and Peyton, aged sixteen, smart house boys;" adding, "The above slaves are fully guaranteed and sold for no fault." The *Religious Herald*, a Baptist journal published in Richmond, had the following:

"Who wants thirty-five thousand dollars in property? I am desirous to spend the balance of my life as a missionary, if the Lord permit, and therefore offer for sale my farm—the vineyard adjacent to Williamsburg * * * and also about forty servants, mostly young and likely, and rapidly increasing in numbers and value."†

Ability to read and write increased the value of the slave and these good qualities are noted in advertisements, an example of which is that of A. Fleym, in the *Charleston Morning Post*, March 6, 1787:

"Negroes for sale, viz.—A mulatto boy, sober, honest, and industrious, can take care of horses, drive a coach, and is a good boatman, fisherman, and house servant, 22 years old, and can read and write very well."*

Oftentimes the hardships suffered by those who refuse to submit appeared in the advertisements, for instance the following in the *New Orleans Gazette*, March 11, 1817:

"A Negro Man who has been two years in jail will be sold at the court house in the town of Baton Rouge, on the 4th day of April next for jail fees. He is about sixty years of age, 5 feet 5 or 6 inches high and says his name is Baptiste."†

In many cases it was necessary that slave-traders circumvent the State laws. In 1803 South Carolina opened her ports to the slave trade. That there might be no grounds for dispute, the collector of the port of New Orleans, in February of 1806, obtained an opinion from the United States Attorney-General that inhabitants of the Territory of Louisiana might lawfully import slaves *from any State in the Union*. Immediately a rapid importation of negroes from Africa began in ships which had touched at Charleston *en route* in order to legitimize their trade. In

* Phillips, *Racial Problems*, p. 220.

† Rhodes, *United States*, vol. i., pp. 323-324.

* Phillips, *Racial Problems*, p. 204.

† *Ibid.* p. 205.

the *Louisiana Gazette* of July 4, 1806, appeared the following:

"The subscribers offer for sale 74 prime slaves of the Fantee Nation, on board the schr. *Reliance*, I. Potter, Master, from Charleston, now lying opposite this city. The sales will commence on the 25th inst. at 9 o'clock A. M., and continue from day to day until the whole is sold. Good endorsed notes will be taken in payment, payable on the 1st of January, 1807.—Kenner and Henderson."

On July 14, 1818, the following item appeared in the *New Orleans Chronicle*:

"The slave market appears to be very brisk—constant demand and high prices—notwithstanding the arrival lately of thirty-six in the brig *Mary Ann*; thirty-nine in the sloop *Thorn*; ninety-seven in the ship *Virgin*; nineteen in the schr. *Sea*; seventeen in the schr. *Fame*; thirty-four in the brig *Venus*; thirty-eight in the brig *Franklin*; thirty-seven in the schr. *Humming Bird*, all from the states; 159 in the brig *Josephus II.* from Africa.

"We are, however, much indebted to the enterprising and successful exertions of Mr. Charles Morgan, for the copiousness of the present supply which, with the aid of three or four hundred that have been seized by General Jackson's officers at Mobile, will probably suffice for the next crop.

"Jersey negroes appear to be peculiarly adapted to this market—especially those who bear the marks of Judge Van Winkle, as it is understood that they afford the best opportunity for speculation. We have the right to calculate on large importation in future, from the success which hitherto attended the trade."†

The abolition cause had few advocates as yet. In 1793 the House of Representatives had refused to abolish slavery because, they said, Congress did not possess power to prevent the importation of slaves prior to 1808, could not emancipate the slaves then in the country, nor

force the States to enact laws to secure better treatment of the negroes. The only power Congress possessed was to lay a duty of \$10 on every slave imported, and forbid the fitting out of vessels in American ports for the purpose of engaging in the African slave trade. In 1793 the South demanded and secured the passage of an act for the rendition of fugitive slaves,* and in 1794 the North secured the passage of a law suppressing the slave trade. But the cotton-gin gave the cotton industry an immense impetus that rendered the need of slaves greater than the natural increase could supply and the slave trade went on openly. So bold and defiant did the slave traders become that on May 10, 1800, Congress passed a more stringent law providing that any citizen of the United States who owned an interest in a ship engaged in transporting slaves from one foreign port to another was upon conviction to be fined twice the value of his interest in the ship and twice the value of his interest in the slaves being transported.†

The activities of Toussaint L'Ouverture in San Domingo had caused the migration of slaves to the United States and it was feared that the horrors of the massacres on that island would be repeated in this country if large numbers of the slaves were al-

* Henry Wilson, *History of the Rise and Fall of Slave Power in America*, vol. i., p. 69 *et seq.*

† McMaster, vol. iii., pp. 515-516. See also Wilson, *Rise and Fall of Slave Power*, vol. i., pp. 83-84.

* Phillips, *Racial Problems*, p. 217.

† *Ibid.*, pp. 221-222.

lowed to enter our ports. Early in 1803, therefore, the House took under consideration a bill prohibiting the landing of any negro, mulatto, or person of color in the port of any State from which he was excluded by the laws of that State. This, however, would work a hardship on those Northern negro citizens who were serving in the merchant marine since they could not enter port again without being seized and punished. The bill was therefore amended, and as finally passed and approved (February 28, 1803)* exempted negroes, mulattoes, or persons of color who were citizens, natives, or registered seamen of the United States or seamen of countries beyond the Cape of Good Hope, and therefore applied chiefly to the French West Indies and Africa.†

In 1799, when Kentucky's new constitution was framed, an attempt was made to incorporate a provision for the gradual abolition of slavery, but the movement was barren of results. In Virginia and Maryland private manumission of slaves had been tried, but the increase of crime among the freed blacks and the tidings of slave insurrections soon put a stop to this practice. The new constitutions of Kentucky and Georgia forbade public

emancipation without the consent of the private slave-owners or the enactment of laws preventing a white immigrant from bringing in his slaves with him. In many States the free blacks were denied the rights of voters and some even forbade them to settle or remain within the jurisdiction. In Tennessee all freedmen were registered, and in Delaware a freedman caught in the act of stealing might be sold over to make restitution.*

In 1803 South Carolina repealed her law against the importation of slaves,† and this, together with the agitation over the purchase of Louisiana, created no little excitement.‡ Congress was petitioned to prohibit absolutely the importation of slaves from any part of the world, and early in January of 1804 a motion had been made also by Bard, of Pennsylvania, to lay a tax of \$10 on each slave brought into the United States or its Territories.¶ Finding the western market still open and highly profitable, South Carolina was carrying on the slave trade with great energy, and it was impossible (according to the Constitution) to forbid this traffic before 1808. The Representatives from this State retorted upon their

* *Statutes-at-Large*, vol. ii., p. 205; *Acts of Congress*, chap. x., 7th Congress, 2d session; *Annals of Congress*, 7th Congress, 2d session, pp. 467-472, 534, 1564-1565.

† Wilson, *Rise and Fall of Slave Power*, vol. i., pp. 84-86; McMaster, vol. iii., p. 517. See also Benton, *Abridgment of Debates*, vol. ii., pp. 725-742.

* Schouler, *United States*, vol. ii., p. 262.

† Channing, *The Jeffersonian System*, pp. 102-103; Phillips, *Racial Problems*, p. 217.

‡ Schouler, *United States*, vol. ii., p. 62 *et seq.*

¶ *Annals of Congress*, 8th Congress, 1st session, pp. 820, 991. See also Von Holst, *Constitutional and Political History*, vol. i., pp. 315-317; Wilson, *Rise and Fall of Slave Power*, vol. i., p. 86.

Northern opponents by blaming the ship-owners of Rhode Island for having provided the means for carrying on this detestable commerce. If we may credit the statements of Southern men, most of the slave-holding members looked forward with great satisfaction to the time when Congress could, constitutionally, prevent the further importation of slaves;* yet, as they averred, they were extremely unwilling to see any legislation on the subject by those who had no common interest or feeling with them concerning it.† The truth probably was that it was not legislation in respect to slavery in the abstract that roused fierce and determined opposition to the proposed tax so much as having this species of property (as they termed it) treated like all other property and taxed like luxuries from abroad. After several propositions to reject or postpone the bill, which

failed by a vote of two-thirds of the House, it was, on the third reading, recommitted, and though afterwards reported with amendments, it was found so unpalatable to a large portion of the House, that it was never finally acted on.*

But the subject was not entirely dropped, and in his message of December 2, 1806, to the second session of the Ninth Congress, Jefferson congratulated the country on the approach of the time at which would cease "those violations of human rights which have been so long continued on the unoffending inhabitants of Africa, and which the morality, the reputation, and the best interest of our country have long been eager to proscribe."†

A bill for this purpose was introduced in the House on December 15, 1806, and recommitted on the 18th.‡ On the 19th an amended bill with the same title was reported and debated at intervals until January 8, 1807, when, having been ordered to a third reading, it was recommitted.¶ A new bill was reported on January 20, but the discussion over the Burr conspiracy and the *habeas corpus* compelled a postponement of the debate

* Hammond, *The Cotton Industry*, p. 41.

† However, when a bill to punish smugglers of slaves was under consideration in Congress, Early, of Georgia, said: "I should like to know how the fear of death will operate on a man who is bound with his slaves to a country where he knows the punishment will not be enforced. He will be bound to a country where the people see slaves every hour of their lives; where there is no such abhorrence of the crime of importing them, and where no man dare inform. My word for it—I pledge it to-day and I wish it may be recollected—no man in the southern section of the Union will dare to inform. It would cost him more than his life is worth. * * * A large majority of the people in the southern states do not consider slavery as a crime. They do not believe it immoral to hold human flesh in bondage. * * * I will tell the truth. A large majority of people in the southern states do not consider slavery as even an evil."

* McMaster, vol. iii., pp. 518-519; Wilson, *Rise and Fall of Slave Power*, vol. i., pp. 86-89.

† Richardson, *Messages and Papers*, vol. i., p. 408.

‡ *Annals of Congress*, 9th Congress, 2d session, pp. 151, 167-190; Benton, *Abridgment of Debates*, vol. iii., pp. 494-496.

¶ *Annals*, pp. 190, 200-203, 220-228, 231-244, 264-267, 270-274; Benton, vol. iii., pp. 497-502.

on the slavery question.* In the meantime, December 8, a bill had been introduced in the Senate and had passed that body on January 27.† Disension on the Senate bill began in the House on February 9, 1807, and on the 13th it was passed with amendments by a vote of 113 to 5.‡ As the Senate disagreed to one of the House amendments, a committee of conference was appointed and a compromise reached, after which the bill passed both Houses and was approved by the President March 2.¶ The debate gave rise to a great and unwonted excitement among the members. There was a very general disposition in favor of the prohibition, but in regard to the details great diversity of opinion existed. The substance of the law was briefly as follows: a fine of \$20,000 with forfeiture of the vessel, forbade the regular trade; and one of \$5,000 with forfeiture of the vessel likewise, forbade the engaging in the traffic casually. Importation and sale were to be punished by fine of not less than \$1,000 nor more than \$10,000 and imprisonment varying from five to ten years. A fine of \$800 was to be

laid on the purchaser who should know that the slave was imported contrary to this act. The States severally were to dispose of such slaves. And to prevent contraband trade by means of the coasting vessels, it was enacted that each coaster should have entered in its papers full descriptions of all slaves on board for transport, under penalty of heavy fine and forfeiture. Other regulations tended in the same direction, but the question of slavery itself was left untouched.*

But there were two Territories and one State where the legislature had no choice of regulation. In what had once been the Territory Northwest of the Ohio slavery had been forbidden by the Ordinance of 1787. In the Northwest Territory, however, slavery had existed long before it came under the jurisdiction of the United States, but for these unfortunate slaves the ordinance did nothing, as it freed no one but simply declared that slavery was prohibited in the future.† In 1796 a petition was sent to Congress from the Illinois country for the suspension of the prohibition of slavery on the ground that the ordinance was an ex-parte contract made by the States only and not by the States and the people of the Territory, who would never have con-

* *Annals*, p. 373.

† *Annals*, pp. 19, 47.

‡ *Annals*, pp. 477-478, 481, 483-487.

¶ The best short account of the proceedings is in DuBois, *Suppression of the African Slave Trade*, pp. 94-109. See also Wilson, *Rise and Fall of Slave Power*, vol. i., pp. 89-97; Adams, *United States*, vol. iii., pp. 356-367; Schouler, *United States*, vol. ii., p. 142 *et seq.*; Locke, *Anti-Slavery before 1808* (Radeliffe Monographs No. XI.) pp. 150-155; Channing, *The Jeffersonian System*, pp. 106-110; Goodell, *Slavery and Anti-Slavery*, pp. 261-262.

*The text will be found in *Annals of Congress*, 9th Congress, 2d session, pp. 1266-1270; *United States Statutes-at-Large*, vol. ii., pp. 426-430; *Acts of Congress*, 9th Congress, 2d session, chap. xxii.; MacDonald, *Select Documents*, pp. 172-176.

† Hinsdale, *The Old Northwest*, p. 335 *et seq.*

sented to be deprived of the benefits accruing from slavery. They said also that the article abolishing slavery was unjust because, if slavery were abolished, it was retroactive and deprived them of vested rights in slaves owned before the ordinance was passed. If, however, it did not do this, it still deprived the masters of vested rights in the issue of slave parents, and they contended that the master had as much right to the issue as to the slave parents. The committee to which this petition was referred asked Congress not to grant the prayer and therefore Congress did nothing.*

Shortly afterward the Territory of Indiana was erected and the struggle for slavery was renewed. Before the territorial government had been organized by Harrison, the people of the Illinois country (in 1800) laid a petition before the Senate asking that slaves should be permitted to be brought in from the United States, that those brought in should serve for life, and that the issue of slave parents born in the Territory should remain in slavery until the male parent reached the age of 31 and the female 28.† But the Senate laid this petition on the table and the people determined to hold a convention to draw up a memorial to Congress. Harrison yielded and on December 20, 1802, delegates from each county

met at Vincennes, with Harrison as president, and prepared a memorial asking Congress to suspend the prohibition of slavery for ten years and to allow the negroes brought in during this time, together with their progeny, to be confined to perpetual servitude.* Again Congress did nothing.

But on September 22, 1803, the Territorial government adopted a "law concerning Servants" which, including whites, "negroes, mulattoes, and other persons not citizens of the United States," provided that any such person coming into the Territory "under contract to serve another in any trade or occupation shall be compelled to perform such contract specifically during the term thereof."† This, therefore, allowed a slave owner to free his slaves, make a contract of service for life, and enter Indiana without fear of molestation.‡ In December of 1804 Indiana became a Territory of the second grade,|| and the pro-slavery men succeeded in securing the passage of a law by which it was only necessary for any one owning a negro boy or wench under fifteen years of age who wished to live in Indiana to enter the name and age of the negro on the records of the court of common pleas, when he could hold

* Hinsdale, *The Old Northwest*, pp. 342-343; *American State Papers, Public Lands*, vol. i., p. 160; McMaster, vol. iii., pp. 524-525; Dunn, pp. 302-309.

† Dunn, *Indiana*, pp. 314-315.

‡ McMaster, vol. iii., pp. 525-526.

|| For details. see Dunn, *Indiana*, p. 320 *et seq.*

* McMaster, vol. iii., pp. 522-523; *American State Papers, Public Lands*, vol. i., pp. 60-61; Hinsdale, *The Old Northwest*, pp. 340-341.

† Dunn, *Indiana*, pp. 297-299.

the boy until he was 35 years of age and the girl until she was 32.* Should the negroes be over fifteen years of age, it was necessary only that the owner and slave go before a court and agree as to the length of servitude.† Such children as might be born of slaves under indenture were to serve the master of the mother — the female until 28 years of age and the males until 30.‡ Provision was made that masters should give a \$500 bond that the slave would not become a public charge if set free at the age of 40 years or afterwards.¶ This threw the Northwest into a commotion and the Legislature was deluged with petitions for the repeal of the law,§ but it was not until 1810, the year after Illinois had been separated from

Indiana, that the laws for the indenture of negroes were repealed.*

In Michigan the contest over slavery was not of long duration, for soon after the Territorial government had been organized the courts decided that all those in servitude, on July 13, when the Ordinance of 1787 became law, were still slaves, as the ordinance did not emancipate them but simply forbade further importation; and that every man who came into the Territory after the ordinance became law was free, provided he came into such parts of the Territory in which the ordinance was in force. Slavery continued to distract the people of Illinois for many years after she was separated from Indiana, as many of the Indiana statutes — such as the “Act concerning Tenants” and the “Act concerning the introduction of negroes and mulattoes into this Territory” — continued to be used as Illinois laws.†

* Wilson, *Rise and Fall of Slave Power*, vol. i., p. 162.

† McMaster, vol. iii., pp. 526-527.

‡ Wilson, *Rise and Fall of Slave Power*, vol. i., p. 162.

¶ Dunn, *Indiana*, p. 330.

§ For some of the attacks, see Dunn, p. 330 *et seq.* For a summary of slave legislation and conditions in Indiana Territory, see also Harris, *History of Negro Servitude in Illinois*, pp. 7-15.

* For details of the struggle, see Dunn, *Indiana*, p. 338 *et seq.*

† McMaster, vol. iii., pp. 527-528.

CHAPTER XV.

1812.

THE COMMENCEMENT OF HOSTILITIES.

Conditions at opening of war — Denunciation of the war — Refusal of the States to fill quotas — Sentiment in the South and West — The Baltimore riot — Appointment of generals — Condition of the navy — Plan to invade Canada — Hull's march to Detroit — His proclamation — Brock's activity — Surrender of Michillimackinac — Defeat of Brush at Brownstown — Brock's proclamation — Dearborn's armistice — Defeat of the British by Miller — The massacre of Fort Dearborn — The siege and capture of Detroit — Hull's court-martial.

Madison's proclamation of war was issued at Washington on June 19, 1812, and thus our country was a second time in arms against Great Britain. In many respects the country was in a better condition than at the outbreak of the Revolution. The population had more than doubled, the National resources had been largely developed, a settled government was in effective operation, and National pride had grown and increased. There was unquestionably zeal and spirit enough in the country to meet the emergency of war, but there was no adequate preparation for a contest with such a powerful antagonist as Great Britain. In the first place there was an enormous extent of frontier sparsely settled and almost cut off from the East for want of good roads and an easy system of communication. This frontier must be protected against the British and Canadian troops and the Indians, though it was true that a large part of this frontier was wilderness and the territory which actually required

defence was only about 1,000 miles in length. The most northwesterly post of the United States was at Michillimackinac, many miles south of which lay a small post, Fort Dearborn (now Chicago). Fort Wayne lay on the Maumee and Fort Harrison on the Wabash, but the only formidable post was Detroit. The woods of New Hampshire and Maine afforded protection to New England, but New York was wholly unprotected, being without even a semblance of a navy on the lakes or a fort of any consequence on land. The southern frontier was equally exposed; for, while there were a few troops at Amelia Island, at Fort Stoddert, at New Orleans and on the Red River, Spain occupied the greater portion of the territory, and, being friendly toward Great Britain, the southern ports might at any time be opened to British troops. Furthermore, the Indians having been aroused by Tecumseh and supplied with British arms, were ready and anxious to take the war-path. On the Atlantic coast condi-

tions were even worse. There were innumerable good harbors where the British could land troops almost unmolested; while there were less than 20 frigates, ships and armed brigs, 165 gunboats and only a few scattered forts many years old for protection against Britain's enormous fleet.*

The army which was to defend this frontier was partly in the field and partly on paper. The part in service consisted of ten old regiments, with ranks half filled, scattered all over the country on garrison duty.† The part

on paper consisted of the thirteen new regiments of regulars to be enlisted for the conquest of Canada, the 50,000 volunteers yet to be raised, and the 100,000 militia to be detached from the States and mustered into government service. In March enlistments for the regular army began. Yet when June came less than 4,000 soldiers had been secured, even though every man who enlisted for five years was given a bounty of \$16 down and promised food, clothing, \$5 a month, and at the end of his service \$15 and a grant of 160 acres of land. The people, particularly in New England, showed no disposition to fill the ranks of the army. Of the 50,000 volunteers not one-fifth had enlisted. In New England every expedient had to be resorted to in order to get soldiers. The rage of party feeling, the discords and bitter feuds of the Democrats and Federalists, and the consequent lack of unanimity in meeting the foe were serious obstacles to carrying on the war. The people of Boston, who had taken so noble a part in the Revolutionary struggle, denounced the second war against England, and when the news reached that city the flags of her shipping were hoisted at half mast in token of mourning and humiliation.* All New England resounded

* McMaster, vol. iii., pp. 541-542. Lossing gives a list and description of the coast fortifications in his *Field-Book of the War of 1812*, pp. 235-238. See also Stevens, *Illinois in the War of 1812-1814*, in *Publications of the Illinois State Historical Library*, vol. ix., p. 115. There are numerous good general works covering the War of 1812 to which we cannot make specific reference; besides there are many magazine articles touching upon certain phases of the war. Among such works are: James Hannay, *How Canada was held for the Empire*; Lucas, *The Canadian War of 1812*; G. W. Wingate, *The Truth in regard to the War and the Necessity of Knowing It*, in *North American Review*, vol. clxxxix., pp. 831-843 (1909); J. Castelli Hopkins, *Canada and the American War of 1812*, in *United Service Magazine*, vol. cxlii. (N. S. vol. xxi.) pp. 613-628 (London, 1900); James Hannay, *The War of 1812*, in *Canadian Magazine*, vol. xx., pp. 230-245, 327-343, 429-445, 539-553; vol. xxi., pp. 39-55, 139-151, 240-250, 344-355, 429-446, 524-540; vol. xxii., pp. 41-57, 164-180 (1903); A. J. Dallas, *An Exposition of the Causes and Character of the Late War with Great Britain*; P. M. Davis, *History of the Late War between the United States and Great Britain*; J. T. Headley, *The Second War with England*; Thomas O'Connor, *Impartial and Correct History of the War between the United States and Great Britain, 1812-1815*; S. White, *History of the American Troops during the Late War*; J. S. Jenkins, *The Generals of the Last War with Great Britain*.

† For the disposition of these troops, see *American State Papers, Military Affairs*, vol. i., p. 320.

* Adams, *Lives of Madison and Monroe*, p. 159. Adams says: "Every one who dared to speak in defence of the administration was denounced in the most unmeasured terms, and curses and anathemas were liberally hurled from the pulpit on the heads of all those who sided, directly or indirectly, in carrying on the war."

with the bitterest denunciations of the executive and the war party.* Against the Administration and its measures were arrayed the State legislature, the merchants, the lawyers, and many of the New England ministers, who felt called upon to be political as well as religious guides. One of these ardent beaters of the "drum ecclesiastic" exclaimed,

* Lossing, *War of 1812*, p. 243; Schouler, *United States*, vol. ii., p. 396. As to the positions of the two parties see Von Holst, *Constitutional and Political History*, vol. i., p. 236 *et seq.* In the memorial sent to the President from Rockingham, Massachusetts (drawn up by Webster) were the following paragraphs: "We are, sir, from principle and habit, attached to the Union of the States. But our attachment is to the substance, and not to the form. * * * If the time should ever arrive when this Union shall be holden together by nothing but the authority of law; when its incorporating, vital principle shall become extinct; when its principal exercises shall consist in acts of power and authority, not of protection and beneficence, when it shall lose the strong bond which it hath hitherto had in the public affections; and when, consequently, we shall be one, not in interest and mutual regard, but in name and form only, we, sir, shall look on that hour as the closing scene of our country's prosperity."

"We shrink from the separation of the States, as an event fraught with incalculable evils, and it is among our strongest objections to the present course of events, that they have, in our opinion, a very dangerous and alarming bearing on such an event. If a separation of the States ever should take place, it will be on some occasion when one portion of the country undertakes to control, to regulate, and to sacrifice the interest of another; when a small and heated majority in the Government, taking counsel of their passions, and not of their reason, contemptuously disregarding the interests and perhaps stopping the mouths of a large and respectable minority, shall by hasty, rash, and ruinous measures, threaten to destroy essential rights, and lay waste the most important interests."—Curtis, *Life of Webster*, vol. i., pp. 107–108; McMaster, *Life of Webster*, pp. 65–66.

"It is a war unexampled in history; proclaimed on the most frivolous and groundless pretenses; let no consideration whatever deter my brethren at all times and in all places, from execrating the present war. Mr. Madison has declared it, let Mr. Madison carry it on. If you do not wish to become the slaves of those who are slaves, and are themselves the slaves of French slaves you must cut the connection, or so far alter the Constitution as to secure yourself a share in the government. The Union has been long since virtually dissolved, and it is high time that this part of the disunited states should take care of itself."

Another cried: "Should the English now be at liberty to send all their armies and all their ships to America and in one day burn every city from Maine to Georgia, your condescending rulers would play on their harps, while they gazed on the tremendous conflagration." A third said: "What sooty slave in all the Ancient Dominion more obsequiously watched the eye of his master, and flew to the indulgence of his desires more servilely, than those same masters have waited, and watched, and obeyed, the orders of the great Napoleon?" "How will the supporters of this anti-Christian warfare endure their sentence—endure their own reflections—endure the fire that forever burns—the worm which never dies—the hosannas of heaven, while the smoke of their torments ascends forever and ever."*

It is not surprising, therefore, that the army officers found difficulty in recruiting the ranks of the regiments.

In New England, as before stated, many expedients were employed to obtain volunteers. Newtown, Massa-

* Ingersoll, *History of the Second War*, vol. i., pp. 52–56.

achusetts, offered any inhabitant who would volunteer \$4.50 per month while in the field; Roxbury would raise the pay of her soldiers to \$15 per month; Cambridge raised the pay to \$15 and added a bounty of \$5; and Lexington raised the pay to \$10 and gave a bounty of \$6.* But these inducements availed little and it was evident that the country would be compelled to rely on the militia. When a call was issued, however, the governors of three New England States flatly refused to obey. Roger Griswold, of Connecticut, declared the call unconstitutional because the militia was not to be used to repel invasion, to put down insurrection or to execute the laws of the United States, and as none of these conditions existed he refused to obey the call.† Both the Council of State and the General Assembly agreed with the governor. The latter body laid down also a doctrine of State's rights which a few years before even the mildest Federalist would have roundly denounced. This doctrine declared that the Union was a confederation of States in a national republic and that the governor was obliged to support the Connecticut constitution just as well as the Constitution of the United States; that he should not allow the sovereign rights of the State to be invaded — and one of these rights was the power to offi-

cer and control the militia.* At about the same time all United States troops were excluded from Hartford by act of the city corporation.‡

The Rhode Island council of war declared that the militia could be detached for only three purposes named in the Constitution and that the governor was the proper person to decide whether any or all of those conditions existed.§ In Massachusetts the governor sought advice from the State supreme court; he asked the judges if the governor of a State, when the President issued a call for militia, had the right to determine whether the constitutional conditions for making such a call existed, and if when the militia were called into the service of the National Government, they could be commanded by any other person than their own officers and the President of the United States. The three judges, Theophilus Parson, Samuel Sewell, and Isaac Parker — answered yes to the first question and no to the second.||

In the Middle and Southern States there was great diversity of sentiment

* Babcock, *Rise of American Nationality*, pp. 152-153. See also Von Holst, *Constitutional and Political History*, vol. i., pp. 243-245.

† Armstrong, *Notices of the War of 1812*, vol. i., p. 195.

‡ For Rhode Island's protest against the war, presented to the Senate June 9, 1812, see *American State Papers, Miscellaneous*, vol. ii., pp. 185-186.

§ *American State Papers, Military Affairs*, vol. i., pp. 321-324; McMaster, vol. iii., pp. 545-546. For the State's protest against the war, see *American State Papers, Miscellaneous*, vol. ii., pp. 186-187.

* McMaster, vol. iii., p. 513.

† John Cotton Smith to Eustis, July 2, 1812, *American State Papers, Military Affairs*, vol. i., pp. 325-326.

on this subject.* Some disapproved of the war, but the majority were undoubtedly in favor of its vigorous prosecution. The Middle States took a medium course. By a large majority, Pennsylvania remained faithful to her alliance with the South. In New Jersey the parties were so nearly equally divided that first one and then the other had the preponderance. In New York peace advocates were so numerous that Governor Tompkins experienced great difficulty in maintaining the upper hand and keeping the State "patriotic." Neither party could positively claim Delaware and Maryland, and finally even in Virginia there was a considerable minority against the Administration.† In the great West, however, the war spirit prevailed over all opposition, and the citizens of that section were ready to a man to take up arms in the cause of liberty and equal right. Conscientious of the dangers to which the frontiers were exposed from savage incursions; fully persuaded that England was engaged in the detestable occupation of inciting the Indians to murderous hostility; and with imaginations fired with the prospect of conquering Canada and expelling the enemy from the continent, the Westerners entered heartily into the contest and had no doubt that victory would crown their efforts.

But in Baltimore opposition to the war was not tolerated for a moment. In that city was a newspaper called the *Federal Republican*, the editor of which, Jacob Wagner, not only ardently advocated the views of his party, but also indulged in very free strictures upon the Administration and its course in regard to the war. So bitter did his denunciations become that the hatred of the Democrats was thoroughly aroused. Long before the war was declared, the opposition newspapers had replied to his attacks, and threats had been heard that if Wagner continued his course after the declaration of war the *Federal Republican* would be silenced. He persisted, however, and on the evening of June 20 his office was mobbed, his presses smashed, and his whole establishment destroyed. Emboldened by its success, the mob the next night scoured the city for men they hated, sacked another private house, burned the house of a free negro, stripped two vessels at the docks ready to sail, and were about to burn the African church when they were dispersed by troops.* Some weeks later Alexander Hanson, the assistant editor of the paper, decided to assert the liberty of the press and to reestablish his newspaper. After consulting his friends, Hanson decided to print the *Federal Republican* at Georgetown, where the press and type would be

* Adams, *Lives of Madison and Monroe*, p. 160; Lamb, *City of New York*, vol. ii., p. 598.

† Von Holst, *Constitutional and Political History*, vol. i., pp. 249-250. See also the note giving votes on the various war measures.

* Babcock, *Rise of American Nationality*, pp. 71-72. *Niles' Weekly Register*, vol. ii., p. 373 *et seq.*, gives a full account of the riots.

safe, and to issue it from the house lately occupied by Wagner in Baltimore. Though he hoped that the law would protect him and his property, Hanson took the precaution to fortify his house, laying in a stock of arms, ammunition and food, and gathering about twenty friends under command of General James Macompin Langan and Henry Lee ("Light Horse Harry"), two old soldiers of Revolutionary fame. On July 27 copies of the paper arrived and were distributed, but the mob again decided to suppress it and that night descended upon the house in force, beat in the door, brought up a cannon and were about to blow the building to pieces when the occupants were persuaded by the mayor to surrender and go to jail to answer charges against them, the mob promising to do no further harm to life or property. These terms being accepted, the defenders of the house were sent to jail, whereupon the house was instantly gutted. The next night the jail was broken open and the prisoners were shamefully abused and maltreated. Eight of them mingled with the mob and escaped, but nine were dragged to the door, where they were beaten down with clubs and their bodies flung in a pile at the foot of the steps. The crowd then fell on the senseless bodies, beat them with clubs and committed other dastardly acts and finally gave them to the jail doctor to make skeletons of. General Langan died of the tortures he underwent, General

Lee was crippled for life, others escaped by feigning death, some being hidden in hay carts and sent to friends out of town, while those who were too severely injured to be moved were cared for at the jail hospital.*

The Federalist newspapers had much to say about this riot, reminding their readers of the days of the Sedition Law when the Republicans had cried out for a free press and free speech. The Republican newspapers had little to say about the riot, but that little was generally in praise. How then, asked the Federalists, in the face of their record in Congress many years before, could the Republicans rejoice in the destruction of a press at Baltimore? At Philadelphia one account of the event was printed as a handbill and headed by the words "Madison's Mob." In retort, the Republicans cited a large number of Federal misdeeds, including the sinking of privateers, the mobbing of a deputy marshal, and the burning of a ship in the custody of the United States, and demanded the political faith of the newspaper which had used the words "we do not intend to live another year under the present national administration."† Such was the state of the popular mind when hostilities began.

To command the army slowly gathering under these disheartening circumstances a long list of officers had

* McMaster, vol. iii., pp. 553-554; Lossing, *War of 1812*, pp. 243-244.

† McMaster, vol. iii., pp. 554-555.

been appointed. Early in 1812 Henry Dearborn, then sixty-one, who had been deputy quartermaster-general in the army of the Revolution, colonel of a New Hampshire regiment after the war, a member of Jefferson's Cabinet and collector of the port of Boston, was made senior major-general.* The other major-general appointed at that time was Thomas Pinckney, then sixty-three, who had acquired what little he knew of military service in the guerilla campaigns of Marion and Sumter, and as a member of the staff of General Gates in the southern campaign of 1780. After the war he entered politics, in 1789 became judge for the district of South Carolina, in 1792 minister to England, in 1794 envoy to Spain (where he negotiated the first of our treaties with that country) and had been a member of Congress during the stormy sessions of Adams' term. The senior brigadier-general was James Wilkinson, then the most infamous person wearing the uniform of the United States. He had just been tried by a court-martial on the charges that he was a pensioner of Spain, had been engaged in treasonable conspiracy, had been an accomplice of Aaron Burr, and finally was guilty of insubordination, negligence, wastefulness and corruption. Though the charges were well founded, as we now know, he was acquitted, on February 14,

President Madison approving the decision and he being retained in his old command.* With him as juniors were appointed Wade Hampton, of South Carolina, fifty-seven years of age, with little military experience; Joseph Bloomfield, who had seen service in the Continental army and for the last ten years had been governor of New Jersey; James Winchester, of Tennessee, another Revolutionary officer originally from Maryland, J. P. Boyd, of Massachusetts; and William Hull, who had been civil governor of Michigan since 1805. Later Thomas Flournoy, of Georgia; John Armstrong, of New York; and John Chandler, of Maine, were appointed brigadiers. Morgan Lewis, of New York, was appointed quartermaster-general; Alexander Smyth, of Virginia, inspector-general; Thomas H. Cushing, of Massachusetts, adjutant-general; and Alexander Macomb, Winfield Scott, Edmund P. Gaines, and Eleazer W. Ripley were commissioned colonels.† With the exception of Hull, none seems to have commanded a regiment in the face of an enemy and altogether were poorly equipped for the work in hand.‡

With the navy, however, things were different. Probably there were no more capable officers afloat than

* For his defence, see his *Memoirs*, vol. ii.

† Lossing, *War of 1812*, pp. 249-250.

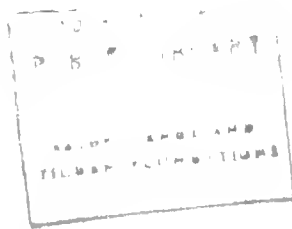
‡ McMaster, vol. iii., pp. 546-547; Adams, *United States*, vol. vi., pp. 289-293. See also Winfield Scott's letters, where the same sentiments are expressed, in his *Memoirs*, vol. i., pp. 31, 35.

* Adams, *Lives of Madison and Monroe*, pp. 160-161; Adams, *United States*, vol. vi., pp. 289-290.



1. WILLIAM HULL.
3. HENRY DEARBORN.
5. SIR ISAAC BROCK (British).

2. JAMES BROWN.
4. ALEXANDER MACOMB.
6. SIR EDWARD PAKENHAM (British).



Hull, Decatur, Bainbridge, Perry and Lawrence; the *Constitution* and the *United States* could not be surpassed by the frigates of Great Britain; and the crews of the various vessels were trained to the seafaring life from earliest childhood and skilled in the art of gunnery.* On the navy rolls were 500 officers and 5,230 seamen and boys; and the marine corps numbered 1,523.† Beside the gunboats, the navy consisted of three heavy frigates rated as carrying 44 guns—the *United States* and the *Constitution* each of 1,576 tons, built in 1797, and the *President* of the same tonnage, built in 1800; three 38's—the *Constellation* of 1,265 tons, built in 1797, the *Congress* of 1,268 tons, and the *Chesapeake* of 1,244 tons, both built in 1799; the *New York*, 36; the *Essex*, a 32-gun frigate of 860 tons, built in 1799; three 28's—the *Adams*, of 560 tons, built in the same year, the *Boston*, and the *John Adams*; two 18's—the *Hornet* of 480 tons and the *Wasp* of 450 tons, built in 1805 and 1806, re-

spectively; three 16's—the *Argus* of 298 tons and the *Siren* of 250 tons, both built in 1803, and the *Oncida*; two 14's—the *Nautilus* and the *Vixen*, both of 185 tons and both built in 1803; and two 12's, the *Enterprise* of 165 tons and the *Viper* of 148 tons, the former built in 1799 and the latter purchased in 1810.*

Sometime before the declaration of war, the invasion of Canada had been determined upon. This indeed was the only aggressive movement which could be made and very sanguine hopes of success were entertained by the Administration. Clay had made the remarkable assertion that:

"We can take Canada without soldiers. We have only to send officers into the province, and the people, disaffected toward their own government, will rally round our standard. * * * It is absurd to suppose we shall not succeed in our enterprise against the enemy's provinces. We have the Canadas as much under our command as Great Britain has the ocean, and the way to conquer her on the ocean is to drive her from the land. I am not stopping at Quebec or anywhere else, but I would take the whole continent from them and ask no favors."‡

* McMaster, vol. iii., pp. 547-548; Roosevelt, *Naval War of 1812*, p. 48; Adams, *United States*, vol. vi., p. 362; Cooper, *Naval History*, vol. ii., p. 40. Of these vessels, the *New York* and *Boston* were unseaworthy and the *Oncida* was on Lake Ontario. In this connection see Charles O. Paulin, *Naval Administration under Secretaries of the Navy Smith, Hamilton and Jones, 1801-1814*, in *Proceedings of the United States Naval Institute*, vol. xxxii., no. iv., pp. 1289-1328.

‡ Cooley, *Michigan*, p. 165. This was not the first suggestion that Canada be taken. On July 25, 1807, and again on October 21, 1807, Gallatin not only suggested that Canada be subjugated but also outlined a plan of campaign. See Gallatin's *Writings*, vol. i., pp. 345-360. Regarding the propriety of the invasion, see A. T. Mahan, *Sea Power in its Relations to the War of 1812*, vol. i., pp. 292-295.

* According to Cooper, the British navy in 1812 nominally contained 1,060 vessels, of which between 700 and 800 were efficient cruising vessels. Such was the state of things in Europe that Great Britain was able to send as many ships as she thought necessary against the Americans. See Cooper, *Naval History*, vol. ii., p. 40. See also the comparison between the two navies in Maclay, *History of the Navy*, vol. i., p. 319. The latter makes the total of the British navy 1,048 vessels, of 860,990 tons, carrying 27,800 guns and manned by 151,572 men. Against this the United States could put but 17 ships, of 15,300 tons, carrying 442 guns and manned by 5,025 men.

† Roosevelt, *The Naval War of 1812*, p. 46 (5th ed.). See also *American State Papers, Naval Affairs*, vol. i., p. 265.

Again he said:

"I trust I shall not be deemed presumptuous when I state that I verily believe that the militia of Kentucky are alone competent to place Montreal and Upper Canada at your feet. Is it nothing to the British nation, is it nothing to the pride of her monarch, to have the last of the immense North American possessions held by him in the commencement of his reign wrested from his dominions? Is it nothing to us to extinguish the torch that lights up savage warfare?"*

General Dearborn had drawn up a plan for an offensive campaign about the middle of May and sent it to the Secretary of War. The main army was to move on Montreal via Lake Champlain, while three corps of militia were to invade Canada from Sackett's Harbor, Niagara and Detroit.† This plan seemed to be feasible, and officers were chosen to carry it out. Commander Thomas MacDonough was ordered to Lake Champlain, and Isaac Chauncey was given command of the vessels on Lake Ontario, and Dearborn went to Albany to push preparations for the expedition against Montreal. Hull was placed in charge of the army of the northwest at Detroit.‡ On May 25 Hull joined the troops at Dayton, consisting of three regiments of Ohio militia under Colonels Duncan McArthur, Lewis Cass and James Findlay, and a troop of dragoons of the 4th United States In-

fantry under James Miller, in all about 1,600 men, who had been sent West sometime previously to defend the frontier against Indian attacks.* The condition of the militia would have disheartened any other general but Hull; for some had scarcely a suit of clothes, only a few had a blanket, the arms were unfit for use, the leather of the cartridge boxes was rotten, and there was no powder but that which the men had brought themselves.† Hull then brought powder from the mills of Kentucky; the people of Ohio gave the soldiers some blankets; and after the guns and muskets had been placed in condition the little army set out for Detroit about the middle of June. As the army advanced it was compelled to build rude bridges over the streams, to construct clumsy roads across the swamps, to cut pathways through the forests, and to put up block houses;‡ but the militia were fitted for such work and made comparatively rapid progress.¶ On June 24, after the army had gone about 75 miles, Hull received a dispatch from Secretary of War Eustis dated June

* S. R. Brown, *Views of the Campaigns of the Northwestern Army*, pp. 4-5; Lossing, *War of 1812*, p. 252; McLaughlin, *Life of Cass*, p. 60; W. L. G. Smith, *Life and Times of Lewis Cass*, p. 35.

† Hull, *Memoirs of the Campaign of the Northwestern Army*, p. 34.

‡ McAfee, *History of the Late War in the Western Country*, pp. 50, 54, 183-187. McAfee gives an excellent account of the hardships encountered.

¶ Hickman, *Life of General Lewis Cass*, p. 26; Lossing, *War of 1812*, p. 256; Smith, *Life and Times of Lewis Cass*, pp. 35-36.

* *Annals of Congress*, 11th Congress, 1st session, p. 580.

† Dearborn, *Defence of General Henry Dearborn*, p. 3.

‡ James Freeman Clarke, *History of the Campaign of 1812*, pp. 325-328 (appendage to the *Life of General Hull*, by his daughter Mrs. Campbell); Armstrong, *Notices of the War of 1812*, vol. i., pp. 15-16.

18, directing him to march to Detroit with all possible speed.* This letter had been written on the morning of the day on which the declaration of war was made, and by some strange carelessness merely reiterated former orders. Hull had every reason to understand its meaning; for he had expected to lead the army against the enemy. Therefore when he received the Secretary's pressing orders, Hull left his heavy camp equipage behind and hurried the army to the Miami or Maumee River, 35 miles away. Expecting to be informed by express when the declaration of war actually took place and not imagining that the British could possibly be in possession of such important intelligence before himself, Hull, to disencumber his army and facilitate the march, hired two small schooners to convey to Detroit his sick, his hospital stores, his intrenching tools, his personal baggage and a trunk containing official and confidential papers by means of which the enemy obtained possession of his correspondence with the government, and the enlistment rolls which disclosed to them the number and condition of his troops.† On July

1 these vessels were dispatched up the lake toward Detroit, but when near Malden the schooner was seized by the British who had learned two or three days before that war was declared. Within twenty-four hours after the vessels had departed, Hull also received word from Secretary Eustis of the declaration of war.‡

After receiving Eustis' dispatch, Hull pushed forward to Detroit, which he reached July 5. Detroit then contained less than 1,000 inhabitants. The fort was a square enclosure of about 200 acres surrounded by an embankment, a dry ditch, and a double row of pickets.§ It was capable of withstanding a siege, but it did not command the river. Its supplies were insufficient for many weeks, it was 200 miles away from the nearest place whence support could come, and the only road of communication was held

* Slocum, *The Ohio Country*, p. 200; Lossing, *War of 1812*, p. 258. Armstrong says: "Instead of exciting to increased spirit and exertion, which would soon have compensated for the loss and atoned for the disgrace so unexpectedly incurred, he [Hull] unfortunately saw it only in the light of an evil omen, and precursor of an attack fatal alike to the objects and agents of the expedition; and accordingly employed himself in imagining and practising devices to avoid a battle."—*Notices of the War of 1812*, vol. i., p. 17.

† Hull's *Memoirs*, p. 35; Clarke, *Campaign of 1812*, p. 332 *et seq.*; McMaster, vol. iii., p. 557; Adams, *United States*, vol. vi., p. 300.

‡ For maps of the river, plans of the fort and early views of the town, see Lossing, *War of 1812*, p. 266; *Harper's Magazine*, vol. xxvi., p. 732; Sheldon, *Early History of Michigan* (cf. *Proceedings of the Massachusetts Historical Society*, vol. xi., p. 16); Darby, *Tour from New York to Detroit in 1813*; Farmer, *Detroit*, p. 367; Roberts, *City of the Straits*, p. 60.

* Slocum, *The Ohio Country*, p. 198; Lossing, *War of 1812*, p. 257. Hull claims that in this letter not one word was said respecting a declaration of war, though on the very afternoon of the day on which the letter was written, Congress passed the war act. See his *Memoirs*, p. 36.

† Cooley, *Michigan*, p. 168; King, *Ohio*, p. 322; Adams, *United States*, vol. vi., p. 299. See also Tupper, *Life and Correspondence of Major-General Sir Isaac Brock, K. B.*, p. 212 (2d ed., 1847).

by the British and Indians. Furthermore, in case of a siege, the 4,000 or 5,000 people congregating at the fort from widely scattered settlements would become a serious burden. Four days after his arrival at Detroit, Hull received dispatches from Secretary Eustis permitting him — should the force under his command be equal to the enterprise — to take the offensive, cross the strait, and occupy Fort Malden.* This was just what the officers and troops had been clamoring for ever since they reached Detroit; and, yielding to the wishes of the officers,† Hull gathered the boats as quickly as possible and at dawn of the 12th crossed the river and took possession of Sandwich, a little village on the Canadian side three miles below Detroit.‡

Before Hull lay the province of Upper Canada, stretching along our frontier from Detroit to the Ottawa River and containing approximately 75,000 people. York (now Toronto), far away on the shores of Lake Ontario, was the capital of the province, and Sir George Prevost was the governor-general. Brigadier-general Sir Isaac Brock was in command of the few troops in the province. Many of the people sympathized with the

Americans and the legislatures would not give the British general even half-hearted support.* Brock was an energetic commander, and little could discourage him. Knowing this, Hull should have pressed on with all speed to Fort Malden (or Amherstburg) and captured it, since (from its position on the Detroit River near the entrance to Lake Erie) it commanded the channel through which all ships must pass on their way from Lake Erie to Detroit. Instead of acting immediately, however, Hull sat still at Sandwich, thinking that the conquest of Canada would result from his mere appearance, and on July 12 issued a proclamation intended to win a peaceful conquest.† He informed the people that the purpose of his invasion was to emancipate all those who desired liberty from tyranny and oppression and to restore them to the dignified station of freemen. He said that he would exterminate the British if they employed Indians in the war, that he had a force which would break down all opposition, and that this force was but the vanguard of a larger one. He requested the inhabitants to choose between peace, liberty and security

* King, *Ohio*, pp. 323-324. At this time Hull's force numbered more than 2,000. See McLaughlin, *Life of Cass*, p. 64.

† McLaughlin, *Life of Cass*, pp. 65-66; Smith, *Life and Times of Lewis Cass*, pp. 37-38.

‡ Lossing, *War of 1812*, pp. 260-262; Armstrong, *Notices of the War of 1812*, vol. i., pp. 17-18.

* Lossing, *War of 1812*, pp. 274-275; Walter R. Nursey, *The Story of Isaac Brock*, pp. 77, 88-89 (1909). See, however, McMullen, *History of Canada*, pp. 256-258.

† Cooley, *Michigan*, p. 172; Brown, *Campaigns of the Northwestern Army*, pp. 10-12; Brannan, *Official Letters*, pp. 30-31; Hull's *Memoirs*, pp. 45-46; Babcock, *Rise of American Nationality*, p. 90. McLaughlin and others attribute this document to Cass; on the contrary see Clarke, *Campaign of 1812*, p. 337 et seq.

offered by the United States, and war, slavery or destruction.* Deluded by Hull's bombast, bluster and gracious promises, a few militia deserted at Malden and 387 farmers of the western province sought protection in the American lines at Sandwich.† Had Hull acted with promptitude and spirit, no doubt the British garrison at Malden would have yielded to him, but, deluded by the arrival of the deserters and farmers, he decided to remain at Sandwich in the hope that more would follow; and this inactivity proved his ruin. Instead of attacking Malden, he remained week after week in a state of inactivity as mortifying as it was inexplicable. Brock, on the other hand, was all activity. Troops were hurried toward Malden, the Indians were roused,‡ a proclamation replying to that of Hull was issued to allay the fears of the people;|| orders were dispatched to the commanders on the island of St. Joseph

to seize the fort at Michillimackinac (or Mackinaw),* and Brock himself took the field.†

Two days after entering Canada, Hull had called a council of war, which decided against storming Malden and advised delay, since so many of the troops were sick that hardly more than 300 men could be mustered out of each of the four regiments fit for active service. The British force opposed to them, moreover, was not to be despised. Colonel St. George, in command of the garrison at Malden, had 200 men of the 41st British Line, 50 men of the Royal Newfoundland Regiment, and 30 of the Royal Artillery, in addition to 600 Canadian militia and 230 Indians. Though the militia deserted rapidly, it was estimated that the garrison numbered nearly 900 men, including Indians. Besides, the British had the advantage of position and of a fleet whose guns covered and supported their left. The Ohio militia had been very unwilling to lose their advantage. If nothing could be gained by attacking, everything was likely to be lost by delay. Detachments scoured the country and at first met little resistance, even crossing the Canard River and driving away the guard at the bridge.‡ But the army

* A. G. Bradley, *The Making of Canada*, pp. 301-302.

† Lossing, *War of 1812*, p. 263. McMullen (*History of Canada*, p. 259) says that very few Canadians joined Hull's standard. Writing to Prevost, July 23, 1812, however, Brock says that "Hull's insidious proclamation, herewith enclosed, has already been productive of considerable effect on the minds of the people. In fact, a general sentiment prevails that, with the present force, resistance is unavailing."—Tupper, *Life and Correspondence of Sir Isaac Brock*, p. 203. See also p. 204.

‡ Regarding the Indians see E. Cruikshank, *The Employment of Indians in the War of 1812*, in *Report of the American Historical Association for 1895*, pp. 321-335; *House Doc.* 291, 54th Congress, 1st session.

|| Nursey, *Story of Isaac Brock*, pp. 87-88.

* McMullen, *History of Canada*, p. 259.

† Nursey, *Story of Isaac Brock*, p. 82 et seq.; Lossing, *War of 1812*, pp. 273-274.

‡ For details of these skirmishes see Lossing, *War of 1812*, pp. 263-267. Cass was in charge of the force that drove the British from the Canard River. See McLaughlin, *Life of Cass*, pp. 70-71; Smith, *Life and Times of Lewis Cass*, pp. 39-40. Cass' report is in Brannan, *Official*

was not ready to take advantage of this unexpected success.* On July 19 and 24 strong detachments were driven back with loss, and the outlook began to grow threatening. On July 22 Hull still seemed to think that he could take Malden by siege. But this was his last expression of confidence, for every day brought him news of disaster. The army began to lose faith in him for his failure to attack. On August 8 the British garrison at Malden received a reinforcement of 60 men of the 41st under Colonel Proctor, and toward the end of the month news came that Michillimackinac had fallen into the hands of the enemy.† This post had been attacked on July 17 by a force of British and Indians, numbering in all over 1,000. Lieutenant Porter Hanks, who commanded the fort, had but 57 men under his command;‡ and though twelve days had passed since Hull's arrival at Detroit, he did not even know that war had been declared. The summons to surrender was the first knowledge he had of the outbreak of hostilities.¶

Letters, pp. 32-33. See also Brackenridge, *History of the Late War*, pp. 32-33. Hickman (*Life of Cass*, pp. 27, 73) says that Cass was the first armed American to stand on the Canadian shore.

* Armstrong (*Notices of the War of 1812*, vol. i., p. 21) says this was due to the fact that Hull obstinately refused to see the advantage of holding the bridge and accordingly ordered the return of the detachment which had captured it.

† Hull's *Memoirs*, pp. 58-60; Babcock, *Rise of American Nationality*, p. 90.

‡ Lossing, *War of 1812*, p. 269.

¶ See his letter quoted in Wilkinson's *Memoirs*, vol. i., pp. 562-563, and in Brannan, *Official Letters*, pp. 34-35.

On learning the strength of the enemy, Hanks, with the unanimous advice of his officers, capitulated — stipulating, however, that the garrison should march out with the honors of war.* On August 3 the garrison arrived at Detroit announcing that Hull must be prepared to resist the attack of a horde of Indians coming from the northwest to take Detroit in the rear.†

Panic-stricken at this news, Hull called a council of war August 5 to determine the proper course of action. In spite of the disheartening news, however, the council had decided to attack Malden on August 8,‡ when the heavy artillery should be ready. But while they were debating, news arrived that an American force had been defeated by the Indians under Tecumseh. A company of Ohio volunteers under Captain Henry Brush was hastening with supplies to join General Hull, whom they expected to find in Canada.¶ Near Brownstown, at the mouth of the Huron River, about 25 miles below Fort Detroit this company discovered a force of Indians under Tecumseh blocking the passage. Brush contrived to get word to Hull

* Brackenridge, *History of the Late War*, pp. 33-34.

† Cooley, *Michigan*, p. 170. See also Lieutenant D. P. Kelton, *Annals of Fort Mackinac*; McMullen, *History of Canada*, p. 259; Lossing, *War of 1812*, pp. 269-271.

‡ Hull's *Memoirs*, pp. 53-54.

¶ For details of this expedition see Samuel Williams, *Two Western Campaigns in the War of 1812*, in *Ohio Valley Historical Series*, no. vii., pp. 9-35 (1871).

by means of a scout, and Major Thomas B. Van Horne, with between 150 and 200 men, was sent out to open the road and escort Brush to Detroit. The latter force, however, fell into an ambush, lost many of their number in killed and wounded, and the rest barely succeeded in making their way back to the fort.* The Indians captured Hull's dispatches, which were sent to Brock, revealing to him the desperate and desponding condition of the American forces.† On the heels of this disaster, Hull received letters from Niagara August 7 announcing the passage of British reinforcements up Lake Ontario to Lake Erie and Malden. Thus, being between an entrenched force nearly equal to his own and a band of 1,000 warriors on his rear, Hull decided it was best to retreat; and on August 8 ingloriously returned to Detroit.‡ Hull's situation at Detroit was not much better than it had been at Sandwich. He wished to abandon Detroit and retreat behind the Maumee, proposing this on August 9 to some of his principal officers. Cass replied that if this were done, the Ohio militia would desert and that if ordered to retreat the

army would fall to pieces.* This determined Hull to remain where he was.

The difficulties of the British generals in Canada were as great as those of the American generals. The entire regular force in the Canadas at the outbreak of the war numbered 6,360 or, including officers, about 7,000. Of these more than 5,000 were stationed in Lower Canada, while, to protect the St. Lawrence, the Niagara and Detroit, Brock had only 1,473 rank and file or, including his own regiment, (the 49th) then at Montreal, 2,137 men. When news of the war arrived, Brock knew not where to expect the first blow; and it was not until Hull passed the Detroit River on July 12 that he could make a move. This invasion of Canada seemed to strike terror into the Canadians, as is evidenced by the report of Sir George Prevost to Lord Bathurst on August 17. He said that little reliance could be placed upon the militia and that there was a marked spirit of disaffection. In order to punish the disorders which threatened to dissolve the army, Brock had called together the provincial legislature on July 27, in the hope that they would adopt prompt and efficient measures to strengthen the hands of the government at such a critical period. But Brock was disappointed; for a lukewarm and temporizing spirit characterized the actions of the legislature, who failed to

* James Dalliba, *Narrative of the Battle of Brownstown* (New York, 1816); *Michigan Pioneer Collections*, vol. vi., p. 466; Samuel Williams, *Expedition of Captain Henry Brush with Supplies for General Hull, 1812*, in *Ohio Valley Historical Series*, no. vii.; Brown, *Campaigns of the Northwestern Army*, pp. 15-16.

† Lossing, *War of 1812*, pp. 275-277.

‡ Adams, *United States*, vol. vi., p. 315; Cooley, *Michigan*, pp. 173-174; Brackenridge, *History of the Late War*, pp. 35-36.

* Hull's *Memoirs*, pp. 64-65. See also Hickman, *Life of Cass*, p. 31.

adopt any of the measures proposed to them and were accordingly pro-rogued.* Unlike Hull, however, Brock moved the minute he had definite news. When he learned that war had been declared, he sent to Amherstburg (or Malden) all the troops he could control and directed the commander of the British post on St. Joseph Island to seize the American fort at Michillimackinac. When Hull issued his proclamation of July 12, Brock issued a counter-proclamation threatening retaliation and justifying the employment of the Indians. This proclamation restored confidence. After dismissing the provincial legislature, Brock hurried toward Malden, ordered reinforcements to collect at Long Point on Lake Erie, and on August 8, while Hull was withdrawing his army from Sandwich to Detroit, passed Long Point, taking with him the 300 men whom he found there and pushing on to the Detroit River.†

Meanwhile Eustis had been sending letter after letter to Dearborn urging him to move toward Niagara. Not before August 3, however, did Dearborn realize he had not done anything. He began preparations to send 1,000 militia to Niagara and requested Major-General Stephen Van Rensselaer of the New York State Militia to take command in person.‡ On the

7th Dearborn wrote to Eustis that he had received intelligence of the passage of a detachment of British troops from Niagara by land to Detroit. Dearborn presumed that before they had marched 250 miles, Hull would receive notice of their approach and cut them off ere they could reach Fort Malden.* But, as we have seen, while Dearborn was sending this information to Eustis August 7, General Brock was passing from Lake Ontario to Lake Erie, and the next morning Hull had retired to Detroit. Nevertheless, desperate as Hull's position was, Dearborn almost succeeded in extricating him without knowing it. The British government had repealed the Orders in Council and, being reluctant to go to war, had ordered Foster to conclude an armistice in case hostilities had commenced, requesting Sir George Prevost to avoid all extraordinary preparations. Foster received his instructions at Halifax, whither he had gone after war was declared; but, as he was unable to carry out his instructions himself, he persuaded John Borlase Warren, the British admiral in command of the naval forces of the Halifax station, to propose a suspension of hostilities on the sea while Prevost arranged an armistice on land. Having every reason to wish for peace, Prevost exceeded his orders, sent his adjutant-general to Albany to ask a cessation of hostilities and on the same day (August 2) wrote to Brock warning

* See the letter quoted in Adams, *United States*, vol. vi., p. 318. See also Brock's letter of August 29 in same, p. 319.

† Adams, *United States*, vol. vi., pp. 319-321.

‡ Dearborn, *Defence of General Dearborn*, p. 5.

* Dearborn, p. 4.

him of the proposed step.* The adjutant-general, Edward Baynes, reached Albany on August 9 and concluded an agreement with Dearborn that the American troops, including those at Niagara, would act on the defensive only until further orders from Washington.† It is strange that Dearborn did not realize the effect of this armistice on the army in the West. He had been repeatedly urged to support Hull by a vigorous movement at Niagara, yet on August 9 he agreed with the British general to act only on the defensive. Detroit was not under Dearborn's command and therefore was not included in the armistice, though Dearborn stipulated that the arrangement should include Hull if he wished it. Orders were sent to Niagara on August 9 directing the commanding officers to confine their operations to defensive measures‡ and a letter was sent to Hull from Washington on August 20, informing him of the armistice and proposing that he concur.§ Dearborn wrote him also from Greenbush on August 9, but Hull claims he did not receive it.¶ Had this letter been sent a week earlier, or had Brock moved less rapidly, Detroit might have been saved. But the delay in sending the message to Hull was fatal, since Brock left

Long Point on August 8 and was already within four days of Detroit when Dearborn wrote from Albany. Before Dearborn's letter to Hull had arrived at Niagara, Brock, with his little army of 300 men, had left Long Point and on August 13 had reached Malden—more than a week in advance of the news of the armistice.*

Meanwhile Hull was besieged at Detroit. Immediately after his return there, he resolved to make another attempt to restore his communications with the Ohio and for that purpose sent nearly half the force—a picked body of 600 men, including the 4th Regiment under Lieutenant-colonel James Miller—to proceed to the Raisin, to clear the woods of the savages there, and to escort Brush to Detroit.† But simultaneously with this movement, General Proctor, with a body of British troops, had crossed over the river to press the advantages gained by Tecumseh. Toward afternoon of the 9th, when the American troops reached Magnaga (near Brownstown and about 14 miles from Detroit), they came upon a body of British and Indians consisting of about 150 regulars of the 41st Regiment, 40 or 50 militia and Tecumseh's little band of 25 Indians.‡ Though the

* Adams, *United States*, vol. vi., pp. 322-325. See also Armstrong, *Notices of the War of 1812*, vol. i., p. 97 et seq.

† Lossing, *War of 1812*, p. 278; Hull's *Memoirs*, p. 72.

‡ Bradley (*The Making of Canada*, p. 304) gives the British force as 75 regulars, 60 militia and 200 Indians. Lossing (*War of 1812*, p. 279) gives the force as 100 regulars, as many militia

* *Life of Brock*, p. 214; *Life of Prevost*, p. 39.

† Dearborn, *Defence of General Dearborn*, pp. 6-7.

‡ Babcock, *Rise of American Nationality*, p. 94.

§ Hull's *Memoirs*, pp. 88-89.

¶ *Ibid.*, pp. 182-183; Dearborn, *Defence of General Dearborn*, p. 7.

British were strongly posted, the American troops attacked and, after a severe contest, compelled them to retreat. The British took to their boats with a loss of 13 or more men and retreated to Malden, while Miller, having lost about 75 men, was soon after recalled to Detroit.* On the 9th Hull sent an order to Captain Nathan Heald to evacuate Fort Dearborn at Chicago, where he was in command, and lead his force directly to Detroit.†

and between 200 and 300 Indians. On p. 280, however, Lossing says that reinforcements of 60 troops arrived soon afterward.

*James Dalliba, *Narrative of the Battle of Brownstown, August 9, 1812*; Brown, *Campaigns of the Northwestern Army*, pp. 16-18; Cooley, *Michigan*, pp. 174-175; Adams, *United States*, vol. vi., pp. 325-326; the account by Dalliba, in H. A. Fay, *Collection of Official Accounts of Battles of the War of 1812*, pp. 9-25; Hull's official account in Brannan, *Official Letters*, pp. 36-38; Brackenridge, *History of the Late War*, pp. 36-37. Lossing (*War of 1812*, p. 281) says the British lost 24 regulars and at least 40 militia and Indians while the American loss was 18 killed and 57 wounded.

†The early history of Chicago is chiefly connected with Fort Dearborn; for even as late as 1830 "Chicago was a hamlet of log houses inhabited by less than a hundred people."

"About the time of the Revolutionary War a colored man from San Domingo, Jean Baptiste Point de Saible (or au Sable) made his way to the Chicago River and established himself there as an Indian trader. Here, about 1777, he built a house of squared logs which may be regarded as the beginning of continuous settlement at Chicago. This house he sold in 1796 to a French trader, who in turn sold it in 1803 to John Kinzie, the first American settler. The house, known as the Kinzie mansion, stood on the north bank of the river opposite the site on which Fort Dearborn was later built, and was in existence until 1837.

"Kinzie was an Indian trader, and no doubt thought Chicago a convenient centre for his business. He brought his family to his new home in 1804, the same year in which the fort was built,

Heald set out on the 15th with about 70 men and 50 friendly Indians, the party escorting several women and children. At a point among the sand hills near the eastern end of the present Eighteenth Street, the party were attacked by a body of 500 savages under Blackbird. Heald defended himself as best he could, but when half his force had been killed, he surrendered. Two of the women and twelve children were butchered during the fight and a number of the wounded were killed afterward. The Indians then burned the fort and divided the plunder.*

and thereafter continued his residence there until his death (1828).

"Fort Dearborn was a mere stockade, with two blockhouses. The quarters for the garrison were enclosed in the stockade. It was situated on the south bank of the river, not far from the lake. At that time the river took a sharp turn to the south just east of the fort, and made its way into the lake over a heavy sandbar not far from what is now the eastern end of Madison Street. The bar was not capable of being crossed by anything larger than a small boat, and the schooner which, in 1804, brought the stores for the garrison had to anchor and land passengers and cargo in boats. The first garrison consisted of one company of infantry (of the First regiment). The site of the fort was on a reservation of six square miles set aside from the United States in Wayne's treaty with the Indians made at Greenville in 1795.

"The settlement at Fort Dearborn made little growth until after the War of 1812. It was far in the wilderness, being reached from Detroit by a trail through the woods, and from Mackinac by lake schooners, of which usually two came each year, in spring and fall."—H. P. Judson, *Chicago*, in *Encyclopædia Americana*, vol. iv. See also Lossing, *War of 1812*, pp. 302-303.

*See Heald's report in *Niles' Register*, vol. iii., p. 155, and in Fay, *Official Accounts*, pp. 65-67; Kirkland, *The Chicago Massacre of 1812*; Daniel Goodman, Jr., *The Dearborns*, in *Proceedings of*

On August 13 the British began to erect batteries on the Canadian side of the river to bombard Detroit. Within the American lines the army was in secret mutiny. Hull's incapacity had disgusted the army and the Ohio colonels even went so far as to suggest removing him from command and placing Colonel James Miller in his place. But Miller declined and Hull retained control.* On the 12th the Ohio colonels wrote a note to the governor of Ohio requesting him to rush at least 2,000 men to their aid and to keep open the line of communication. In the letter they said also that Hull was talking of capitulation.† On the 14th Hull made a last desperate effort. Captain Brush had informed him that he would endeavor to reach Detroit by a circuitous route. Accordingly, Hull ordered McArthur and Cass to select the best men from their regiments and, if possible, to open a circuitous route of 50 miles through the woods to the River

the *Chicago Historical Society* (1884); Lossing, *War of 1812*, pp. 303-313; Albach, *Annals of the West*, p. 865; A. T. Andreas, *History of Chicago* (1884-86); *Fergus Historical Series*, no. xvi.; J. G. Wilson, in *United Service Magazine*, vol. iv., p. 320 (October, 1865), and *Historical Magazine*, vol. vi., p. 108; William Barrows, *United States of Yesterday*, etc., chap. v., from *Magazine of American History*, p. 360 (April, 1885).

* MeAfee, *History of the Late War in the Western Country*, pp. 71, 81-83; McLaughlin, *Life of Cass*, pp. 73-75; *Niles' Register*, vol. ii., p. 357, and vol. iii., pp. 37, 53; Lossing, *War of 1812*, pp. 272-273, 277, 282; Hatch, *A Chapter of the War of 1812*, p. 40.

† Smith, *Life and Times of Lewis Cass*, p. 53; Brown, *Campaigns of the Northwestern Army*, p. 20; Dearborn, *Defence of General Dearborn*, pp. 13-15.

Raisin. The operation was difficult and dangerous, but the supplies which had so long been detained there must be had at any cost and the two colonels promptly undertook the service.* Selecting 350 men from their regiments, Cass and McArthur set out. By night time they had gone beyond the Rouge, but were stopped the next evening (August 15) by a swamp less than half way to the Raisin.†

After their departure, Hull learned that Brock with heavy reinforcements had reached Malden on the 13th. According to his own story, he immediately sent word to Cass and McArthur to return to Detroit.‡ But as a matter of fact, these orders were not sent until the afternoon of the next day (the 15th).|| But these measures had little effect on the result, as Brock had acted with great decision and rapidity. The next day after reaching Malden (on the night of

* Hull's *Memoirs*, pp. 73, 119, 124, 164. In his letter to Eustis on August 26, however, he states that Cass and McArthur set out on the evening of August 13 at about the hour of Brock's arrival at Amherstburg. Brannan, *Official Letters*, p. 47; *Niles' Register*, vol. iii., p. 55. Regarding this, see also James F. Clarke's letter in the *Boston Post*, February 5, 1844, written when Cass was a candidate for the Presidential nomination.

† Lossing, *War of 1812*, p. 285; Smith, *Life and Times of Lewis Cass*, pp. 43-45.

‡ Hull's *Memoirs*, p. 110. He contradicts himself, however, on p. 165, saying that not until after rejecting Brock's demand of surrender on the 15th did he send the express to Cass.

|| Hull to Eustis August 26, 1812. He says: "At daylight on the 16th, at which time I had received no information from Colonels McArthur and Cass, my expresses, sent the evening before," etc.—Brannan, *Official Letters*, p. 47; *Niles' Register*, vol. iii., p. 55.

August 13) he held a council, said to have been attended by 1,000 soldiers and Indians.* Arrangements were made with the Indians and Brock decided to move his army immediately across the Detroit River and take the fort by storm. On the afternoon of the 15th he sent a flag summoning Hull to surrender, saying that the force at his disposal authorized him to require the surrender. He did not wish to join in a war of extermination, but warned Hull that the moment the contest began the Indians would be beyond his control.† After some delay Hull refused to surrender‡ and then sent orders recalling McArthur's detachment.¶ As soon as Hull's reply reached the British lines, Brock opened up upon the fort and town with his batteries and sent the *Queen Charlotte* of 17 guns and the *Hunter* of 10 guns up the river to do likewise. The fire was returned, disabling two of the British guns,§ but no energetic measures had been taken either to repel assault, or withstand a siege.

During the night Tecumseh and 600 Indians crossed the river about two miles below Detroit and cut communi-

cation between McArthur's detachment and the fort. Early on the morning of the 16th Brock, with 330 regulars, 600 Indians, and five pieces of light artillery crossed the river and landed at Spring Wells, three miles below Detroit.* Brock had intended to take up a strong position and force Hull to attack it. But learning that McArthur's detachment was but a few miles distant, he resolved upon an assault and almost immediately marched forward to the attack. Hull's force was drawn up in battle array outside the fort, the artillery was well planted and the Americans had no fear of meeting the enemy.† Even when under trial for his life Hull never expressed a belief that Brock's assault could have succeeded. If it had failed, the British force would have been caught between the main army and McArthur's detachment, which was within hearing of the battle, and marching directly toward it. But without a single shot in opposition and without the loss of a single man, the whole British force got into position.

Hull now seems to have been in great distress. The shot from the enemy's batteries across the river were falling into the fort when he was

*Tupper, *Life of Brock*, p. 228; Nursey, *Story of Isaac Brock*, pp. 100-102; Lossing, *War of 1812*, pp. 283-284; Clarke, *Campaign of 1812*, p. 361.

†Tupper, *Life of Brock*, p. 231; Hull's *Memoirs*, p. 95.

‡Hull's *Memoirs*, p. 96; Armstrong, *Notices of the War of 1812*, vol. i., pp. 33-34.

¶Lossing, *War of 1812*, p. 286; Hull's *Memoirs*, p. 165.

§Lossing, *War of 1812*, p. 287.

* Hull's *Memoirs*, p. 166; Tupper, *Life of Brock*, p. 250; Nursey, *Story of Isaac Brock*, p. 105; Lossing, *War of 1812*, p. 287.

† Brown, *Campaigns of the Northwestern Army*, p. 22. Lossing (p. 288) says the Americans had 400 rounds of 24-pound shot fixed; 100,000 cartridges prepared; no lack of arms and loose ammunition; and ample provisions for 15 days, while more was approaching.

about to be assaulted from the land side. Knowing that sooner or later the fort must fall, dreading massacre by the Indians, and anxious for the safety of McArthur and Cass, Hull decided to surrender and withdrew the troops from all exterior positions.* After Brock had placed his troops under cover, a white flag ascended from the batteries before him, and within an hour the British troops, to their utter astonishment, found themselves in possession of the fort. Not a blow was struck, not a gun was fired, not a word of consultation was had with his officers—not a single stipulation for the honor of his troops, but an unconditional surrender of everything to the enemy.† The fortress, the garrison, the munitions of war, the detachment under McArthur and Cass, even the small force under Brush guarding the supplies at the River Raisin—were included in the capitulation.‡ Cass and McArthur, with their detachment, arrived in a half-starved condition just in time to learn of the surrender. They hoped to escape, but were compelled by hunger to accede to the terms of the capitulation.¶ Captain Brush, however, indignantly refused to submit,

declaring that Hull had no right to include him and marched his force back to the Ohio.* The loss is variously stated. Hull estimated his effectives below 800,† Cass at 1,600,‡ while Brock, undoubtedly wishing to magnify the brilliance of his victory, reports the number captured at 2,500.¶

The amazement and indignation of the soldiers and of the whole country at Hull's surrender can hardly be depicted. Although the loss of Detroit was the greatest that had befallen the United States either before or since, the public little understood the causes that made it inevitable and could only see in it the result of Hull's cowardice. Every voice was raised against Hull, and not only was he charged with cowardice, disgraceful inefficiency and imbecility, but was accused of treason and collusion with the enemy to deliver up for British gold and without military excuse an army and a province. Under date of August 26, Hull sent his report to Washington and placed the best construction upon his action that was possible.§ But in a letter to Secretary of War Eustis on September 10, Cass contradicted Hull

* Armstrong, *Notices of the War of 1812*, vol. i., p. 37; Nursey, *Story of Isaac Brock*, pp. 106-108.

† McLaughlin, *Life of Cass*, pp. 77-78; Lossing, *War of 1812*, pp. 288-289; Fay, *Official Accounts*, pp. 25-26. See also the testimony in Dearborn, *Defence of General Dearborn*, p. 15 *et seq.*

‡ Brannan, *Official Letters*, p. 40.

¶ Smith, *Life and Times of Lewis Cass*, pp. 46-47.

* Brackenridge, *History of the Late War*, p. 40; Lossing, *War of 1812*, p. 290.

† Hull's *Memoirs*, p. 122 *et seq.*; letter to Eustis August 26, *Niles' Register*, vol. iii., p. 55; Brannan, *Official Letters*, p. 47. Clarke (*Campaign of 1812*, p. 382 *et seq.*) gives the various estimates.

‡ Hull's *Trial*, App. ii., p. 27; Smith, *Life and Times of Lewis Cass*, p. 55.

¶ Tupper, *Life of Brock*, p. 247.

§ Brannan, *Official Letters*, pp. 44-49; *Niles' Register*, vol. iii., p. 55.

in almost every essential point.* Everything seemed to be against the victim, and his name and reputation sank under the fearful explosion of wrath and disappointment which fell upon his head. He was subsequently tried by court-martial, which assembled in January and concluded its labors in March of 1814.† At his trial

* Brannan, *Official Letters*, pp. 56-60; Lossing, *War of 1812*, pp. 292-293; Hickman, *Life of Cass*, pp. 38-45.

† There are two editions of the proceedings of his trial: the report of Colonel J. G. Forbes (New York, 1814) and the *Trial of Brigadier-General William Hull for Treason, Cowardice, Neglect of Duty, and Unofficer-like Conduct, with the sentence of the Court and the Remission thereof by the President of the United States* (Boston, 1814). At the same time Hull published his *Defence of Brigadier-general William Hull, delivered before the General Court Martial, of which Major General Dearborn was President, at Albany, March, 1814. With an Address to the Citizens of the United States, written by Himself. To which are prefixed the charges against General Hull as specified by the Government* (Boston, 1814). In 1824 Hull issued his *Memoirs of the Campaign of the Northwestern Army in 1812*, in which he reflected on General Dearborn. Hull's charges were repelled by H. A. S. Dearborn, in his *Defence of Gen. Henry Dearborn against the Attack of Gen. William Hull* (Boston, 1824). The fullest defence of Hull is that by his daughter Mrs. Maria Campbell and his grandson, James Freeman Clarke, *Revolutionary Services and Civil Life of General Hull, together with the History of the Campaign of 1812 and the Surrender of the Post of Detroit* (New York, 1848).

he was charged with treason, cowardice, neglect of duties and conduct unbecoming an officer. Of the first charge he was acquitted, but was found guilty of the others and was sentenced to be shot. The court recommended him to the mercy of the President for his advanced age and his services during the Revolution. The President heeded the recommendation for mercy and remitted the death sentence but ordered that his name be stricken from the roll of the army.*

For various opinions see Lossing, *Hull's Surrender of Detroit*, reprinted from *Potter's American Monthly* (August, 1875); W. L. G. Smith, *Life and Times of Lewis Cass*, chap. vi.; James Foster, *Capitulation: or a History of the Expedition Conducted by William Hull, by an Ohio Volunteer* (Chillicothe, 1812); William Hatch, *Chapter of the History of the War of 1812 in the Northwest, Embracing the Surrender of the Northwestern Army and Fort at Detroit, August 16, 1812, etc.* (Cincinnati, 1872); James V. Campbell, *Political History of Michigan*; Cooley, *Michigan*, chap. ix.; Farmer, *Detroit and Michigan*, chap. xlii.; Parish, *The Robert Lucas Journal of the War of 1812 During the Campaign under General Hull*; Samuel Williams, *Two Western Campaigns in the War of 1812, in Ohio Valley Historical Series*, no. vii. (1871).

* Clarke, *Campaign of 1812*, chap. iv.; Cooley, *Michigan*, p. 176; McMaster, vol. iii., p. 559; Adams, *United States*, vol. vii., pp. 414-417; Niles' *Register*, vol. vi., p. 154 *et seq.*

CHAPTER XVI.

1812-1813.

EARLY CAMPAIGNS IN THE NORTH AND WEST.

Condition of the Army at Niagara — Elliott's exploit — The attack on Queenston Heights — Shameful conduct of the militia — Smyth's proclamations — The attack on Black Rock — Smyth's resignation — Other operations — Dearborn's inactivity — Attacks on Forts Wayne and Harrison — Harrison's march to the Northwest — Defeat and massacre of Winchester's troops at Frenchtown — The siege of Fort Meigs — Defeat of the British at Fort Stephenson.

In the eastern part of the United States the American forces were concentrated chiefly in two bodies; one near Lewiston, under General Stephen Van Rensselaer, the other in the neighborhood of Plattsburgh and Greenbush, under General Dearborn. Bodies of regulars were stationed at Black Rock, Ogdensburg, and Sackett's Harbor, with experienced officers for drilling the volunteers and raw troops as they arrived. On August 19 General Van Rensselaer reported from Lewiston that between Buffalo and Niagara he had less than 1,000 militia without ordnance heavier than six-pounders, and but few of these; that there were no artillerists to serve what few pieces there were; and that the troops were in a very indifferent state of discipline.* He had gathered all the troops within his reach, but on August 18 received notice from Dearborn of the armistice and accordingly arranged with the British commander,

Major-General Sir R. H. Sheaffe, that the armistice should end four days after either party was notified by the other that hostilities were to be renewed. Such word Van Rensselaer received on September 4, and on September 8 war along the frontier began.

For some weeks no move was made; but as the soldiers grew restless, as the season was far advanced, and as some reinforcements had come, Van Rensselaer, accused by the Republicans of intentionally delaying the expedition because he was a Federalist, decided to lose no more time in crossing the river and taking Queenston (or Queenstown). On September 15 Van Rensselaer had with him only 1,600 militia, but Dearborn sent two regiments from Albany with two companies of artillery; Commodore Chauncey came to Lake Ontario with authority to create a fleet, and Lieutenant Jesse Duncan Elliott of the navy was detached to Lake Erie for the same purpose, and supplies were rushed to Buffalo. In the early days

* See also his letter to Tompkins, August 31, in Van Rensselaer, *A Narrative of the Affair of Queenstown in the War of 1812*, Appendix, p. 35.

of October the conditions requisite for the advance were more than fulfilled; 2,500 militia with a regiment of light infantry (without guns) and the 13th United States Infantry were in the neighborhood of Lewiston, while a brigade of regulars 1,650 strong, under command of Brigadier-General Alexander Smyth, were on the march to Buffalo.* When Smyth reached Buffalo on September 29, he reported to Van Rensselaer that, judging from the character of the country below the falls, a crossing could be made most easily above the falls, between Fort Erie and Chippawa, and accordingly he should encamp his troops near Buffalo.† Van Rensselaer had arranged to cross below the Falls, considering that the better place, and accordingly, on October 5, requested Smyth to name a day for a council of war. To this reasonable request Smyth paid no attention‡ and Van Rensselaer decided to begin the invasion without his assistance, knowing that the forces under his immedi-

ate orders below the Falls were sufficient for the purpose.* Moreover, the soldiers were becoming impatient, due probably to a brilliant stroke of Lieutenant Elliott.† On the night of October 8, 1812, Elliott and Captain Nathan Towson, with 50 sailors and 74 soldiers of Smyth's brigade, cut out two English vessels from under the guns of Fort Erie. One of these vessels was the *Adams*, captured by Brock at Detroit and renamed the *Detroit*; the other (the *Caledonia*) had belonged to the Northwestern Fur Company.‡ The *Detroit* was destroyed, but the *Caledonia* was saved and added to the little American fleet on the lake.||

At Queenston were then stationed only two companies of the 49th Regiment (British) with a small body of

*Van Rensselaer's *Narrative*, p. 19.

†Brackenridge, *History of the Late War*, p. 68; Wilkinson's *Memoirs*, vol. i., p. 572, App. viii.

‡The *Detroit* mounted 6-pounders and had a crew of 56 men; the *Caledonia* mounted two small guns and mustered 12 men. (Lossing, *War of 1812*, p. 385).

||*American State Papers, Naval Affairs*, vol. i., pp. 282-284; Elliott's report in Fay, *Official Accounts*, pp. 67-70, and in Brannan, *Official Letters*, pp. 66-69; Cooper, *Naval History*, vol. ii., pp. 151-153; Roosevelt, *Naval War of 1812*, pp. 155-158; Maelay, *History of the Navy*, vol. i., pp. 474-476; Lamb, *City of New York*, vol. ii., p. 606; Adams, *United States*, vol. vi., pp. 346-347; Elliott's *Address at Hagerstown*; Lossing, *War of 1812*, pp. 385-388; Dawson, *Battles of the United States*, vol. ii., p. 140; Ketchum, *History of Buffalo*, vol. ii., p. 276; *Correspondence in Relation to the Capture of the British Brigs Detroit and Caledonia on the night of October 8, 1812* (Philadelphia, 1843); Edward D. Mansfield, *Life and Services of General Winfield Scott*, pp. 35-36; Spears, *History of Our Navy*, vol. ii., pp. 273-279; Mahan, *War of 1812*, vol. i., pp. 354-356.

* Lossing (*War of 1812*, pp. 390-391) divides the force under Van Rensselaer into 3,650 regulars and 2,650 militia. Between Black Rock and Buffalo was Smyth with 1,650 regulars; in the vicinity were 386 militia under Lieutenant-Colonels Joseph G. Swift and Hopkins; and at Lewiston were about 1,700 militia under Brigadier-General Elijah Wadsworth, near whom was Brigadier-General James Miller with 600 militia. At Fort Niagara were Lieutenant-Colonel John R. Fenwick with 550 regulars and Major J. R. Mullany with 800 regulars.

† Lossing, *War of 1812*, p. 389.

‡ Wilkinson's *Memoirs*, vol. i., App. viii.; Lossing, *War of 1812*, p. 384; Van Rensselaer's letter in Fay, *Official Accounts*, p. 34; Brannan, *Official Letters*, p. 74.

militia, numbering altogether about 300 men. Brock himself was at Fort George, about five miles above Queenston, with the greater part of the 41st Regiment, which he had brought back from Detroit, and a number of Indians; the rest of the troops were at Chippawa and Fort Erie opposite Buffalo where the real attack was expected. Van Rensselaer chose the night of October 10-11 for the attack. He planned a double attack by throwing one body of troops across the river to carry Queenston, while a strong body of regulars attacked Fort George from the rear, but Snvth's actions finally decided him to attack Queenston only. Accordingly, at 4 o'clock in the morning of October 11, in the midst of a furious northeast storm, the troops were marched to the river front and the first boat was shoved out from the north shore. The lieutenant in command carelessly—some say traitorously—took with him all the oars.* Not another boat could follow, and after waiting until daylight for the lieutenant to return, the troops were marched back to camp in a mutinous frame of mind.†

Van Rensselaer would have waited for a council of war, but the almost ungovernable temper of the officers

and men satisfied him that to postpone the attack would only involve him in suspicion and injure the service. The troops declared they must act or go home.* Accordingly, he made arrangements to begin the attack on October 13. The force designated to storm the heights was divided into two columns, the first consisting of 300 State militia under Colonel Solomon Van Rensselaer, and the other of 300 regulars of the 15th Regiment led by Colonel John Chrystie. Arrangements having been completed, the troops embarked under cover of the American batteries early on the morning of the 13th. Thirteen boats had been provided to transport the troops to the other side; three of these lost their way or were forced by the current down the stream until obliged to return,† Colonel Chrystie being in one of the boats that failed to land. Finally the beach was reached, a line formed, and the march begun, the command of the regulars devolving upon Captain John E. Wool in the absence of Chrystie.

Meanwhile anticipating the attack, the British had been on the alert and had obtained considerable reinforcements from Fort George. On perceiving the advance of the Americans from the other side of the river, the British opened upon them a shower of musketry and grape which did considerable damage and made the land-

* Bradley, *The Making of Canada*, p. 311.

† Armstrong, *Notices of the War of 1812*, vol. i., p. 101; Brackenridge, *History of the Late War*, p. 68. Lossing says that the lieutenant deliberately moored his boat to the opposite shore and ran "as fast as the legs of a traitor or coward could carry him."—*War of 1812*, p. 392.

* Mansfield, *Life of Scott*, pp. 36-37.

† Chrystie's account in Armstrong, *Notices of the War of 1812*, vol. i., p. 210; Lossing, *War of 1812*, p. 394.

ing more hazardous.* But the American troops succeeded in landing and drove the Canadians toward Queenston.† At daylight Brock himself galloped up and mounted the hill above the river to watch the contest from the hilltop.‡ At the same moment Captain Wool with a few companions climbed the steep heights overhanging the town by means of a path which had been reported to Brock as impassable and was left unguarded.§ Wool's appearance on the top of the hill was a complete surprise and Brock barely escaped capture.¶ Brock immediately set himself the task of recovering the heights. He had previously sent for the 41st Regiment under General Sheaffe from Fort George, but, without waiting for these reinforcements, collected a few men and sent them to dislodge Wool. The first attack was beaten back and the second also was a failure, resulting in the death of Brock, who was leading the troops in person.¶¶

The only reason for holding the heights was to cover or assist the movement below, where the main column of troops with artillery and intrenching tools should have occupied Queenston and advanced or fortified itself. At about 7 o'clock Colonel Chrystie succeeded in crossing the river and took command of the force on the river bank, but was unable to do anything for lack of artillery and intrenching tools.* Unable to move without support, he recrossed the river and reported the situation to General Van Rensselaer. The latter had already sent orders to General Smyth to send his brigade to Lewiston as early as possible, ordering Captain Joseph G. Totten of the engineers to cross the river with intrenching tools and lay out a fortified camp.† Toward noon General Van Rensselaer himself with Chrystie crossed to Queenston and climbed the hill, where he found that Lieutenant-Colonel Winfield Scott had taken command of Wool's force, the latter having been wounded.‡ About 3 o'clock Chrystie joined the party on the hill, which was later reinforced by Brigadier-General William Wadsworth of the New York militia with a party of troops, so that 350 regulars and 250 militia were supposed to have been on the heights.¶ It was believed,

* Armstrong, *Notices of the War of 1812*, vol. i., pp. 102, 211; Bradley, *The Making of Canada*, p. 312.

† Lossing, *War of 1812*, p. 395; Armstrong, *Notices of the War of 1812*, vol. i., pp. 103, 212-213.

‡ Nursey, *Story of Isaac Brock*, pp. 135-139; Bradley, *The Making of Canada*, p. 313.

¶ Lossing, *War of 1812*, p. 397.

§ Tupper, *Life of Brock*, p. 330; Nursey, *Story of Isaac Brock*, pp. 140-143, 149; Lossing, *War of 1812*, pp. 397-398.

¶ Tupper, *Life of Brock*, p. 330 *et seq.*; Nursey, *Story of Isaac Brock*, pp. 149-160; McMullen, *History of Canada*, p. 264; Lamb, *City of New York*, vol. ii., p. 609; Adams, *United States*, vol. vi., pp. 349-350; Lossing, *War of 1812*, pp. 398-399.

* Armstrong, *Notices of the War of 1812*, vol. i., p. 214.

† *Ibid*, vol. i., p. 215.

‡ Mansfield, *Life of Scott*, p. 40.

¶ Lossing, *War of 1812*, pp. 400, 402.

that with the first repulse of the British, the victory was complete, but the enemy rallied.

Toward 3 o'clock General Sheaffe arrived from Fort George, bringing with him 380 men of the 41st Regiment, 300 militia, and 150 Indians. Besides these, 200 militia came from Chippawa.* As the death of Brock had left the British without a commander, General Sheaffe assumed command and once more the British advanced to the attack. At first the American troops were disposed to falter, but, animated by the conduct of Chrystie and Scott, once more compelled the British to retire.† This was the third victory gained since morning and, had the men on the heights been properly sustained, complete triumph would undoubtedly have rested with the Americans. On seeing the advance of the British and being anxious to expedite the embarkation of the American troops, Van Rensselaer recrossed the river, but to his dismay found that not one of them was willing to go into the fight.‡ In his report of the next day Van Rensselaer says that he and others rode through the camp urging the troops to cross, but neither commands nor entreaties could move

them.* To hide their cowardice, they shamelessly professed to have constitutional objections to invade an enemy's territory; they said they were militia, and could only be called out to enforce the laws, to subdue insurrections, and to repel invasions. Under the Constitution, the President had no power to send them out of the United States when they would not go.†

About 4 o'clock the British renewed the engagement. Perceiving from the opposite shore that the American troops were almost exhausted and their ammunition nearly gone, Van Rensselaer was compelled to send a note to General Wadsworth informing him of the disgraceful conduct of the militia and leaving it to him to resist or retreat as he deemed best.‡ But Wadsworth, as Ingersoll says, "could do neither. Surrender, nearly unconditional, was all he could do or get for his troops, who, from before daybreak in the morning till late in the afternoon had been constantly engaged. They did not yield at once, without a sharp conflict, however; but panic seized some of the militia, and complete rout soon took place instead of orderly retreat,—a movement beyond the discipline of unpracticed

* Bradley, *The Making of Canada*, p. 314. McMullen (*History of Canada*, p. 265) says Sheaffe's force was less than 1,000 in number, of which 560 were regulars and 100 Indians. See also Lossing, *War of 1812*, p. 402.

† Stone, *Life of Brant*, vol. ii., p. 508; Marcus J. Wright, *Life of Winfield Scott*, pp. 16-17.

‡ Armstrong, *Notices of the War of 1812*, vol. i., p. 104; Lossing, *War of 1812*, p. 402.

* Fay, *Official Accounts*, p. 38; Brannan, *Official Letters*, p. 77; Wilkinson's *Memoirs*, vol. i., App. viii.

† Lamb, *City of New York*, vol. ii., pp. 610-611; McMaster, vol. iv., p. 12; Adams, *United States*, vol. vi., pp. 351-352.

‡ Armstrong, *Notices of the War of 1812*, vol. i., pp. 106, 218; Lossing, *War of 1812*, p. 402.

troops." Overwhelmed by numbers, the 600 gallant soldiers were slowly enveloped, shot down, driven back foot by foot to the edge of the cliff and down the side to the river bank, where, as no one would row a boat across, the little band threw down their arms and surrendered. In the battle about 90 Americans were killed, while the number of wounded can only be estimated. Not less than 900 men surrendered, including 300 skulkers and cowards who never reached the heights but had been crouching at the river's edge all day.* Among the prisoners were Brigadier-General William Wadsworth, of the New York militia, Winfield Scott, John E. Wool, Joseph G. Totten, and Lieutenant-Colonel John R. Fenwick, of the United States light artillery. Being on the other side of the river, General Van Rensselaer escaped capture, but he was enraged at the conduct of the militia and, after sending his report of the affair to General Dearborn, requested to be relieved of the command.† Knowing little of the circum-

stances, Dearborn consented. After denouncing Van Rensselaer to Secretary of War Enstis as an ignorant military officer, jealous of the regular service, Dearborn ordered him to transfer the command to General Smyth.*

Smyth seems to have been fired with an ambitious desire to distinguish himself and to wipe out previous disgraces. Conceited and volatile, he at once began to wage war by proclamation. On October 24 he took command at Buffalo and on November 10 issued a bombastic address to the men of New York calling upon them to aid the country in its hour of need.† As Peter B. Porter was to command the volunteers, he transmitted Smyth's address to his neighbors assuring them that Smyth's powerful army would in a few days occupy all the British fortresses on the Niagara River and that it needed but a campaign of one month to palsy the savage then wielding the scalping knife,

* Mansfield, *Life of Scott*, pp. 43-45; Lossing, *War of 1812*, p. 403.

† Wright, *Life of Scott*, pp. 17-18; Babcock, *Rise of American Nationality*, p. 95; Bradley, *The Making of Canada*, pp. 315-316. In his *Notices of the War of 1812* Armstrong censured the conduct of the battle and Van Rensselaer replied in his *Narrative of the Affair at Queenstown* (New York, 1836). See also Bonney, *Legacy of Historical Gleanings*, chaps. ix.-xi.; Scott, *Autobiography*, chap. vi.; the reply by Wool, in *Historical Magazine* (November, 1867); Whittlesey, *General William Wadsworth's Division*, in *Western Reserve and Ohio Historical Society Tracts*, no. v.; Dawson, *Battles of the United States*, vol. ii., p. 143; F. B. Tupper,

Life and Correspondence of Major-General Sir Isaac Brock (London, 1845); J. C. Dent, *Last Forty Years of Canada*; W. L. Stone, *Life of Brant*, vol. ii., pp. 503-537; John Symons, *Narrative of the Battle of Queenstown Heights* (Toronto, 1859); Perkins, *History of the Late War*; Brackenridge, *History of the Late War*; pp. 67-71; Thornton, *Historical Sketches of the Late War*; Bayliss, *Battle of Queenston*; Auchinleck, *History of the War of 1812*; Chrystie, *Military Operations in Canada*; Jarvis, *Narrative*.

* Lamb, *City of New York*, vol. ii., p. 611; Adams, *United States*, vol. vi., p. 353; McMaster, vol. iv., p. 13.

† *Niles' Weekly Register*, vol. iii., p. 203. See also Bradley, *The Making of Canada*, pp. 317-318; Lossing, *War of 1812*, p. 410; Brackenridge, *History of the Late War*, p. 73.

to restore peaceful conditions on the frontier, and to redeem the tarnished reputation of the nation.* This proclamation was followed by another from Smyth,† with the result that within two weeks more than 1,000 men had enrolled. It only remained for Smyth to make good his promises, for by this time about 4,500 regulars and volunteers from New York, Pennsylvania, and Baltimore, had gathered at Black Rock.‡

The night of November 27 was selected as the time for crossing the river, it being expected that two detachments sent in advance of the main army would surprise and disable the enemy's batteries, and destroy an approach five miles below, after which the main army would cross.§ The British were supposed not to have more than 1,000 men within 20 miles to resist the attack of the 3,000 Smyth intended to send from Buffalo.§ On the night of the 27th the two detachments ordered to prepare the way set out: one (about 200 strong) under Colonel C. G. Boerstler, and the other (100 regulars) under Captain King, who was accompanied by Lieutenant Samuel Angus, of the navy, with 70 sailors,¶ the whole being under the direction of General William H. Winder.

The party under Boerstler, whose object was to destroy the approach, went several miles down the river, dispersed the enemy, and made several prisoners, but returned without having accomplished their object, having only torn up a part of the approach without destroying it. The party under King, who were ordered to attack the batteries opposite Black Rock, dispersed the enemy, rendered useless their artillery, and prepared the way for the safe landing of the army. Meanwhile the sailors had performed their part of the task assigned them; and supposing that King's party had either been captured or had returned, took the boats and crossed to the American shore. As a result, King and most of his troops were captured by the British, the others escaping in two boats found some distance away.*

At sunrise the main army began to embark at Navy Island, but the embarkation progressed so slowly that toward afternoon, when all the boats were occupied, only 1,200 men with artillery were aboard, whereupon Smyth ordered them to disembark and dine.† Smyth would not cross without 3,000 men, and as this number was not ready to embark, he called a council of war at a time when delay was fatal. The council of war decided not to risk

* *Niles' Weekly Register*, vol. iii., p. 233.

† *Ibid.*, vol. iii., p. 216.

‡ Lossing, *War of 1812*, p. 427; Bradley, *The Making of Canada*, p. 318.

§ See the orders in *American State Papers, Military Affairs*, vol. i., pp. 500-501.

§ Bradley, *The Making of Canada*, p. 318.

¶ Lossing, *War of 1812*, p. 428.

* Armstrong, *Notices of the War of 1812*, vol. i., pp. 109-110; Fay, *Official Accounts*, pp. 62-63; Cooper, *Naval History*, vol. ii., pp. 157-158; Lossing, *War of 1812*, p. 429; Brackenridge, *History of the Late War*, p. 74.

† Lossing, *War of 1812*, p. 430.

crossing,* and instead sent the troops to their winter quarters.† The whole army was furious; some of the militia broke their muskets, many threatened to go home at once, and others charged Smyth with cowardice.‡ Burning with rage, he appointed December 1 for crossing the river. Again Porter led the way with his troops, but again before the other bank was reached a council of war was held and Smyth recalled the expedition, ordered the volunteers to go home, and the regulars to go into winter quarters.¶ A scene of riot and confusion ensued; some 3,000 or 4,000 men, indignant and disgusted, without order or restraint, discharged their muskets in every direction.§ A few days afterward General Porter stigmatized Smyth in the newspapers as a coward.¶ On Grand Island, in the presence of the army, the two generals exchanged shots without damage. Smyth was now hardly safe (the soldiers even firing at him**) and, realizing his position, he retired to his home in Virginia, where he learned some time later that his name had

been stricken without authority of law from the rolls of the army.*

Though the main army had suffered defeat, there had been a few smaller exploits which somewhat offset the disaster. On September 15 a detachment of militia from Ogdensburg attacked a party of the British moving down the St. Lawrence and defeated them. The British were reinforced and in turn compelled the militia to retire.† In retaliation the British attempted to destroy Ogdensburg on October 2, but were repulsed by General Jacob Brown in command at that station.‡ On October 19 Colonel Zebulon M. Pike made an incursion into Canada, burned a block-house, and escaped without loss.¶ On the 22d a party of 40 British, with baggage, dispatches, and colors, were captured by Captain Lyon at St. Regis.§ On November 23 this success was offset by the capture of two American officers, with 40 men and four boats, at Salmon River.

Thus far there was little room for congratulation on account of the land operations. But the conduct of General Dearborn capped the climax of

* See Smyth's report and letter in Brannan, *Official Letters*, pp. 100, 102-103.

† Armstrong, *Notices of the War of 1812*, vol. i., pp. 112-113; Lossing, *War of 1812*, p. 430.

‡ Brackenridge, *History of the Late War*, p. 75.

¶ McMaster, vol. iv., pp. 14-15; Adams, *United States*, vol. vi., pp. 356-361; Babcock, *Rise of American Nationality*, p. 96; Lossing, *War of 1812*, pp. 430-431.

§ Porter's letter in Brannan, *Official Letters*, pp. 108-109.

¶ *Niles' Weekly Register*, vol. iii., p. 264.

** McMullen, *History of Canada*, p. 268; Lossing, *War of 1812*, p. 431.

* Part of Smyth's correspondence, while in command, was transmitted by him to the House of Representatives and will be found in *American State Papers, Military Affairs*, vol. i., pp. 490-510.

† Lossing, *War of 1812*, pp. 372-373; Brackenridge, *History of the Late War*, p. 76.

‡ Lossing, pp. 373-374.

¶ Brackenridge, *History of the Late War*, p. 76.

§ Report of Major Young, October 24, in Brannan, *Official Letters*, pp. 86-87. See also Lossing, pp. 374-376.

the military misdeeds of 1812.* Early in the summer Dearborn assumed command of the army of the reserve at Albany, where he collected more than 3,000 regular troops, while 2,000 Vermont troops and 1,000 New York militia were on Lake Champlain, ready to move on Montreal. According to General Armstrong, there were altogether less than 3,000 opposed to Dearborn, and it was their task to protect 900 miles of frontier.† On November 8 he wrote from Albany to Eustis that he would join the army under General Joseph Bloomfield at Plattsburg. But on his arrival at Plattsburg, he found Bloomfield ill and was obliged to take command in person. Left to his own devices, Dearborn pushed down Lake Champlain and pitched his camp near the Canadian frontier. Three days before, however, the British commander had by some means heard that the invasion was about to take place, and on the 20th one of the regiments sent forward to meet the advancing enemy came upon the troops under Colonel Pike. According to Ingersoll, "A confused and incomprehensible skirmish ensued in which each party's object seemed to be to get away from the other, till the Americans, in the dark, mistaking themselves for enemies, began to fire on each other, killed four or five, and

wounded as many of themselves, and then returned leaving their dead behind, which Indians would never have done. Where Generals Dearborn, Chandler, and Bloomfield were during this wretched foray did not then appear nor can be now told; and on no occasion did General Dearborn ever lead his troops into action." As quietly as possible, therefore, Dearborn marched back to Plattsburg on November 23 and put the army into winter quarters.*

Dearborn's failure did not end the disasters. The fall of Detroit and Chicago in August threw the American frontier back to the line of the Wabash and the Maumee, thus leaving the northwestern frontier at the mercy of the Indians. The Maumee was defended by Fort Wayne and the Wabash by a little fort or block house built by Harrison during the Tippecanoe campaign and named Fort Harrison. Fort Wayne was within 20 miles of the Ohio border and Fort Harrison stood near the site of the present city of Terre Haute, close to the border of Illinois. After Brock's departure for Niagara, the Indians, with the aid of some regular troops from Detroit and Malden, attacked Fort Wayne and Fort Harrison simultaneously in September. In the attack on Fort Harrison the Indians were almost successful, but the young captain in command, Zachary Taylor,

* For an excuse for this idleness see Ingersoll, *History of the Second War*, vol. i., p. 99.

† Armstrong, *Notices of the War of 1812*, vol. i., pp. 113, 219-220.

* McMaster, vol. iv., pp. 17-18; Adams, *United States*, vol. vi., pp. 359-361.

succeeded in saving the fort.* Captain James Rhea with 70 men held Fort Wayne until reinforcements arrived on September 12.†

Meanwhile, in June of 1812, Governor William Henry Harrison began a crusade for the relief or recovery of Detroit, which Hull had not yet surrendered.‡ On August 25 Harrison was commissioned major-general by the Kentucky authorities and placed in command of an expedition to relieve Detroit,|| but shortly after he started, news came of Hull's surrender. Meanwhile volunteers were pouring in to serve under Harrison, more than 10,000 men being enlisted.§ Harrison placed himself at the head of the troops and started for the Northwest on August 28, reaching Fort Wayne on September 12 and relieving Captain Rhea, as already stated. He paused long enough to punish the Indians; on September 15 burned a Miami village at the forks

of the Wabash, and several other villages lower down, on the 16th destroyed the village of the Pottawatamie chief, O-nox-see, or Five Medals, on the Elkhart; and on the 19th laid waste the Little Turtle towns on the Eel River.* On the 18th, however, General James Winchester of the regular army arrived at the fort, and the next day Harrison formally surrendered the command to him as ranking officer.† Harrison then started back to resume his duties as governor of Indiana,‡ but on his arrival at Piqua on September 24 he received a commission as commander-in-chief of the army of the northwest, Winchester's name having been withdrawn chiefly because of political pressure from Kentucky.||

On receiving his commission Harrison wrote to Secretary Eustis announcing his plan of campaign; if the autumn were dry, he would move at once on Detroit to take that city before the winter set in, but if the season were rainy, it would be necessary to wait at the Rapids until the Maumee and the Lakes were sufficiently frozen to bear the army and its baggage.§ Harrison divided the army into three columns which, starting

* See Taylor's letter in Fay, *Official Accounts*, pp. 29-33; Brannan, *Official Letters*, pp. 61-63; Brackenridge, *History of the Late War*, pp. 64-65.

† Adams, *United States*, vol. vii., pp. 72-73. See also *Harper's Magazine*, vol. xxvii., pp. 147, 152; Lossing, *War of 1812*, pp. 313-315, 317-318.

‡ Governor Edwards of Illinois vigorously opposed such an expedition on the ground that it would leave the frontier exposed. See Edwards, *History of Illinois from 1778 to 1833*; and *Life and Times of Ninian Edwards*, pp. 337-342, 345-346.

|| Montgomery, *Life of Harrison*, p. 111; Lossing, *War of 1812*, pp. 320-322; Slocum, *The Ohio Country*, p. 205.

§ Shaler, *Kentucky*, p. 158 *et seq.*; McMaster, vol. iv., pp. 18-19; *The South in the Building of the Nation*, vol. i., p. 281.

* Lossing, *War of 1812*, p. 325; Brown, *Campaigns of the Northwestern Army*, pp. 27-28.

† Slocum, *The Ohio Country*, p. 212; Brackenridge, *History of the Late War*, p. 57.

‡ Montgomery, *Life of Harrison*, pp. 111-114.

|| Babcock, *Rise of American Nationality*, p. 97; Armstrong, *Notices of the War of 1812*, vol. i., p. 58.

§ Dawson, *Life of Harrison*, p. 312; Lossing, *War of 1812*, pp. 338-339.

from widely separated points, were to move to the Maumee Rapids — the right column, consisting of Virginia and Pennsylvania troops, by way of the Sandusky River; the centre column, consisting of 1,200 Ohio militia and 800 mounted infantry, by Hull's Road; and the left column, consisting of four Kentucky regiments and the 17th United States Infantry, by way of the Auglaize River to Fort Defiance on the Maumee and thence down the river to the Maumee Rapids, where it would join the other two columns.* At the same time Major-General Samuel Hopkins of the Kentucky militia was ordered to march with 2,000 men up the Wabash into the Indian Territory, after destroying the Indian settlements on the Wabash and Illinois rivers.† By October the right wing, consisting of the Virginians and Pennsylvanians, had reached the Lower Sandusky, but the central column, consisting of the Ohio militia, found Hull's Road impassable and got no further than Urbana, 100 miles from the Maumee. The left column, consisting of the Kentuckians under Brigadier-General Winchester, reached the river and encamped near old Fort Defiance. The march northward from Dayton and Piqua had

been one of hardships and privations, and when the troops reached Fort Defiance, the struggle with hunger and cold became still more desperate; hundreds of the men had no shoes and the army was without flour repeatedly for many days, and on several occasions almost without food.* In October, when Harrison reached the camp, he found that the army had seen neither salt nor flour for five days and was on the verge of mutiny.† Still Harrison determined to push on, and on December 20 ordered Winchester to descend the Maumee from Fort Defiance to the Rapids, where he was to prepare sleds for an expedition against Malden. Winchester's army broke up their camp near Defiance and marched to the Rapids, which they reached on January 10. They fortified themselves on the north bank and awaited the arrival of Harrison, who was supposed to join them January 20.‡

Winchester's force included three regiments of Kentucky militia (about 900 effectives), the 7th United States Infantry (about 300 men), and some volunteer Kentuckians, the whole command numbering about 1,300 men.¶ When the soldiers were building the camp, two Frenchmen came in

* Armstrong, *Notices of the War of 1812*, vol. i., p. 60.

† This expedition resulted in nothing save a display of insubordination among the troops, terminating in the abandonment of the expedition. Lossing, *War of 1812*, pp. 335-336. See also Hopkins' report in Brannan, *Official Letters*, pp. 95-97.

* McAfee, *History of the Late War in the Western Country*, p. 184; Dawson, *Life of Harrison*, pp. 293, 374, App., note 8.

† Slocum, *The Ohio Country*, pp. 215-216; Lossing, *War of 1812*, p. 330.

‡ Armstrong, *Notices of the War of 1812*, vol. i., pp. 66, 197.

¶ *Ibid.*, vol. i., pp. 197-198; McAfee, *History of the Late War*, p. 230.

to beg protection for Frenchtown, a little village on the River Raisin about 30 miles to the north, held by 300 Canadian militia and Indians.* Accordingly, on January 17, 550 men under Colonel William Lewis of the 5th Kentucky militia and 110 men under Colonel John Allen of the Kentucky Rifle Regiment started for Frenchtown and, unopposed, reached the south bank of the Raisin about 2 o'clock in the afternoon of the 18th.† On the north bank was a force of 50 Canadian militia and 200 Indians.‡ About 3 o'clock the Americans attacked the enemy and, after a determined resistance, drove them out of Frenchtown. The loss of the enemy was inconsiderable; that of the Americans was 12 killed and 55 wounded, reducing their effective number to 600.|| Colonel Lewis reported his success to General Winchester, who then seems to have realized how foolishly he had acted. Whereas his total force consisted of less than 1,300 troops divided into two equal bodies on the Maumee and at Frenchtown, there were fully 2,000 (according to Harrison's estimate,

4,000) British troops not 18 miles beyond the Raisin.*

The news of the success at Frenchtown produced "a complete ferment" in the camp, and, according to McAfee, "all were anxious to proceed to Frenchtown in support of the advanced corps; it was evident [that] that corps was in a critical situation." Unable to restrain the impetuosity of the volunteers, Winchester set out on the evening of the 19th with his troops, followed by 250 men under Colonel Samuel Wells who arrived at Frenchtown on the 20th.† According to Winchester's own story, the town was picketed on three sides, the longest facing the north. Within these pickets Colonel Lewis had stationed his corps and there, too, Winchester decided to defend himself. According to Major E. D. Wood, as quoted by McAfee,‡ the troops were permitted to select for themselves such quarters on the west side of the river as best pleased them, while Winchester took his quarters on the east side, without the slightest regard for defence, order, regularity or system. No patrol went the rounds at night and there was no artillery and very little ammunition.|| The sole defence was the line of high pickets, which

* Armstrong, *Notices of the War of 1812*, vol. i., p. 199.

† Lossing, *War of 1812*, p. 351; Slocum, *The Ohio Country*, p. 224; McMaster, vol. iv., pp. 21-22; Adams, *United States*, vol. vii., pp. 86-87.

‡ Lossing (*War of 1812*, p. 352) gives the British force as 200 militia and about 400 Indians.

|| Brackenridge, *History of the Late War*, pp. 89-90; Adams, *United States*, vol. vii., pp. 88-89.

* Armstrong, *Notices*, vol. i., p. 198.

† Slocum, *The Ohio Country*, p. 225; Lossing, *War of 1812*, p. 353.

‡ *History of the Late War in the Western Country*, p. 233. See also Shaler, *Kentucky*, p. 161.

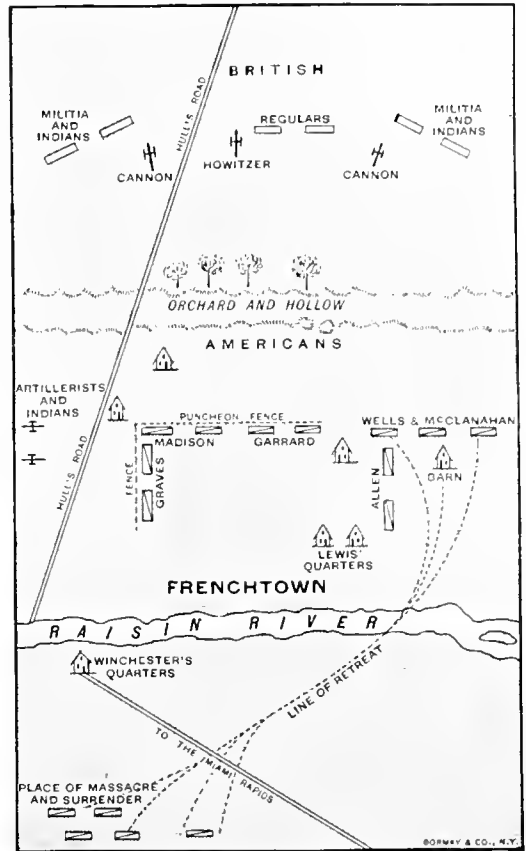
|| Armstrong, *Notices of the War of 1812*, vol. i., pp. 199-200; Montgomery, *Life of Harrison*, pp. 127-128; Lossing, *War of 1812*, p. 354.

was practically valueless, as not all the troops could find quarters behind this protection. On the 20th, when Colonel Wells arrived, therefore, he was directed to encamp in an open field immediately outside the picketing.* On the 21st the British general, Henry Proctor, started toward Frenchtown with a force of 1,100 troops consisting of about 600 whites and 500 Indians under Chief Round Head.† On the 22d the assault was made.

Had all the American troops been under cover, they might have repulsed the British attack, but Wells' regiment was in the open field beyond the picket fence and was slowly driven back toward the river. Seeing this, Allen's rifle regiment rushed out from behind the picket to aid the regulars, but too late. The British pressing steadily forward, the Americans were gradually forced toward the rear until, having been driven across the river, the men became panic-stricken and fled, with the Indians in hot pursuit. In the deep snow escape was impossible. Colonel Allen was shot by an Indian and scalped, while nearly 100 Kentuckians fell by his side and suffered the same fate.‡ General Winchester, Colonel Lewis and a few others surrendered to Chief

Round Head and by him were sent to General Proctor.*

Proctor had suffered very severely in his attack upon the pickets; but when he found that Winchester had surrendered he at once determined



BATTLE OF FRENCHTOWN.

to capture the party in the picketing under Graves and Madison. He assured Winchester that nothing but an immediate surrender could save the Americans from an indiscriminate massacre by the Indians, and pledged his word that if they would promptly

* Armstrong, *Notices of the War of 1812*, vol. i., pp. 73, 199.

† McMullen (*History of Canada*, p. 271) says 500 regulars, seamen, and militia, and 600 Indians. Lossing (*War of 1812*, p. 356) gives the same figures.

‡ Lossing, *War of 1812*, p. 355.

* McMullen, *History of Canada*, p. 271.

lay down their arms they would be protected.* If this were not done, however, Proctor declared he would set fire to the village and would not be responsible for the conduct of the savages.† Intimidated by this threat, Winchester sent an order to the troops under Major Madison to surrender unconditionally as prisoners of war.‡ Hateful as this was, there was nothing else to be done.¶ With their ammunition nearly exhausted, and surrounded by 1,000 enemies, they had no chance of escape; and as retreat was impossible, they decided to surrender.§

When Madison surrendered it was with the distinct understanding that the persons and effects of the prisoners should be protected and properly cared for; that sleds should be sent the following morning to move the sick and wounded across the lake to Amherstburg; that they should be protected in the meantime; and that

the side arms should be returned to the officers when they reached Malden.* But no sooner had the prisoners given up their arms than the Indians began to destroy the tents and plunder the baggage. Proctor paid no attention to this, since he feared attack by Harrison and was anxious to return to Malden. As quickly as possible, therefore, he herded together all the prisoners able to walk and sent them forward to Malden. Moreover, the only guard left by Proctor to protect the wounded from the Indians consisted of two surgeons, a major, and three interpreters.† As a result, a scene of shocking barbarity followed, the dead being stripped and scalped and their bodies horribly mutilated. The wounded had been carried to the houses of the inhabitants, but the Indians fell upon them, stripped them of clothing and every article of value, tomahawked the majority, and, to finish the scene, fired the houses and consumed the dying and the dead.‡

* Brackenridge, *History of the Late War*, p. 91; Montgomery, *Life of Harrison*, pp. 130-131.

† Armstrong, *Notices of the War of 1812*, vol. i., pp. 74-75, 200-201; Lossing, *War of 1812*, p. 356.

‡ Brown, *Campaigns of the Northwestern Army*, p. 35; McAfee, *History of the Late War in the Western Country*, p. 215.

¶ Madison's account, quoted in Armstrong, *Notices of the War of 1812*, vol. i., pp. 76-77, 202-203.

§ Richardson, *War of 1812*, p. 79. See also William James, *A Full and Correct Account of the Military Occurrences of the Late War between Great Britain and the United States*, vol. i., pp. 189, 420; Niles' *Weekly Register*, vol. iv., p. 83; Bradley, *The Making of Canada*, pp. 320-322; Winchester's account in Fay, *Official Accounts*, pp. 73-77; various reports in Brannan, *Official Letters*, pp. 126-133.

* Cooley, *Michigan*, pp. 182-183.

† Lossing, *War of 1812*, p. 357.

‡ Brackenridge, *History of the Late War*, pp. 92-93. See also Elias Darnell, *A Journal * * * of the Hardships, Sufferings, Battles, Defeat, and Captivity of those Heroic Kentucky Volunteers and Regulars Commanded by General Winchester in the Years 1812-1813, etc.*, pp. 49-54; William Atherton, *Narrative of the Sufferings and Defeat of the Northwestern Army under General Winchester*, pp. 56-57. McAfee attacked Winchester's conduct and it was defended in *Historic Details having relation to the Campaign of the N. W. Army under Generals Harrison and Winchester, 1812-1813* (Lexington, Ky., 1818). See also the accounts by Thomas P. Dudley in *Western Reserve Historical Tracts*, no. i. (Cleveland, 1870),

The American loss was 934, of whom 197 were killed and missing and the remainder made prisoners. The British loss was 24 killed and 158 wounded. The Indian loss is not known.*

Had Proctor acted with energy, he might have advanced to the Rapids without opposition and there have captured Harrison with his 900 troops, artillery train, and stores.† But Proctor had no desire to fight, and, having deserted his wounded prisoners, he hurried from the field of battle and rested not until he was again intrenched at Malden. Harrison, too, wished to avoid battle, and while the British general fled toward Canada, Harrison, burning the post at the Maumee Rapids and destroying his stores, turned his back and retreated to the Portage or Carrying River, some 18 miles in the rear.‡ At the Portage Harrison remained a week gathering troops and mustering courage to return to the Rapids, where on February 1 he began the construction of a regularly fortified camp on the south bank of the river, which in

honor of the governor of Ohio he named Fort Meigs.* He then abandoned the campaign† and, leaving his troops at Fort Meigs to make the best defence they could in case of an attack, went off to Chillicothe and Cincinnati to gather reinforcements.‡

While he was absent the term of service of the greater part of the militia composing the Northwestern army expired, and the troops marched home, reducing the garrison to a few half-sick regulars under the command of a major of artillery.§ New levies from Ohio and Kentucky were ordered on to supply the places of the militia, but as these did not arrive for some time the Pennsylvania brigade volunteered their services for another month to defend the fort, now menaced with an attack.¶ Harrison met with little encouragement from the people among whom he had gone for reinforcements and on March 17 reported that dismay and disinclination to the service prevailed in the western country and that the new drafts from Ohio were not to be depended upon.‖ Learning that Proctor intended to assault Fort Meigs, Harrison hurried back from Cincin-

and in *Historical Magazine*, vol. xix., p. 28; Collins, *History of Kentucky*, vol. i., p. 299 *et seq.*; Ranck, *History of Lexington, Kentucky*, chap. xxxvii.; Lossing, in *Harper's Magazine*, vol. xxvii., p. 156 *et seq.*

* Lossing, *War of 1812*, p. 360. Adams (*United States*, vol. vii., p. 98) says there were about 500 prisoners, 400 killed or massacred, and 30 or 40 escaped.

† Armstrong, *Notices of the War of 1812*, vol. i., p. 79.

‡ Brown, *Campaigns of the Northwestern Army*, p. 40; Harrison's letter in Brannan, *Official Letters*, pp. 122-124; Lossing, *War of 1812*, p. 364.

* Montgomery, *Life of Harrison*, p. 135.

† McAfee, *History of the Late War in the Western Country*, p. 240.

‡ Brown, *Campaigns of the Northwestern Army*, p. 41.

§ Slocum, *The Ohio Country*, p. 231.

¶ Brown, *Campaigns of the Northwestern Army*, p. 42; Lossing, *War of 1812*, pp. 475-477.

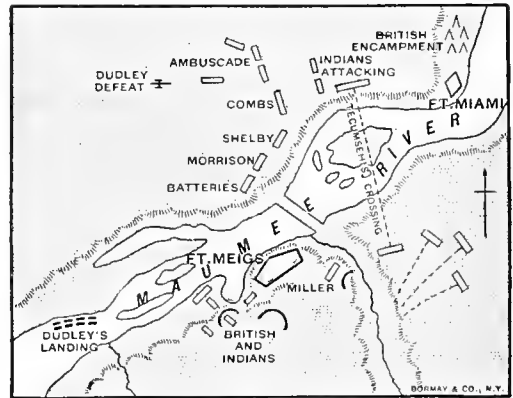
‖ Armstrong, *Notices*, vol. i., p. 242; *American State Papers, Military Affairs*, vol. i., pp. 452-453; Brannan, *Official Letters*, pp. 139-141.

nati with 300 men, leaving a brigade of Kentucky militia to follow. He reached the fort on April 12, just sixteen days before Proctor appeared at the mouth of the Maumee with 983 regulars and militia, 1,200 Indians under Tecumseh, plenty of artillery, and two gunboats to support the land battery.*

Immediately on his arrival Harrison prepared to withstand an attack. The fort was situated upon rising ground a few hundred yards distant from the river and surrounded by much meadow land. The garrison was well supplied with the means of defence and Harrison, with the assistance of his engineers (Captains E. D. Wood and Charles Gratiot), labored night and day to improve its capacity for resisting the siege.† By April 30 the British had mounted two batteries (one of two 24-pounders and the other of three howitzers) on the north bank of the river,‡ while the Indians surrounded the fort on the south. On May 1 the British batteries began the bombardment and for several days there was an incessant firing of bombs and cannon-balls, the besieged, with great perseverance and with great

care — since ammunition was scarce — returning the enemy's fire. Only one American was killed and four wounded during the whole time.*

Meantime a Kentucky brigade of 1,200 men under Brigadier-General Green Clay, which Harrison had left with orders to follow him, had descended the Auglaize River in boats



ASSAULT ON FORT MEIGS.

and on May 3 arrived at Defiance, where news was received of the investment of Fort Meigs.† Harrison directed Clay to detach a large part of his troops on the opposite side of the river for the purpose of forcing the enemy's batteries and spiking the guns.‡ Accordingly, on the morning of May 5, Clay sent 866 men under

* Richardson, *War of 1812*, p. 94. McMullen (*History of Canada*, p. 276) gives this as 520 regulars, 460 militia, and 1,500 Indians. Lossing (*War of 1812*, p. 478) gives about the same figures.

† Montgomery, *Life of Harrison*, pp. 155-156; Slocum, *The Ohio Country*, pp. 234-235.

‡ Lossing, *War of 1812*, p. 482. Brackenridge (*History of the Late War*, p. 98) says one 24-pounder, one 12-pounder, one 6-pounder, and one howitzer.

* Montgomery, *Life of Harrison*, pp. 157-158; Brown, *Campaigns of the Northwestern Army*, p. 45 *et seq.* Lossing (p. 484) says that a third battery of three 24-pounders was opened by the British on May 2, and that on the 3d a fourth battery was opened.

† Lossing, *War of 1812*, pp. 480-481.

‡ Slocum, *The Ohio Country*, p. 237; Brown, *Campaigns of the Northwestern Army*, p. 47; Lossing, *War of 1812*, p. 485; Armstrong, *Notices of the War of 1812*, vol. i., p. 123.

Colonel William Dudley to make the attack. They descended the Rapids, landed on the north side of the river, surprised and took possession of the batteries, which were entirely unprotected, and would probably have easily driven Proctor from the field, had Harrison and Clay properly supported them. But Dudley's men, elated with success and under no discipline, pushed on in pursuit of the flying foe with an impetuosity that nothing could resist, and as a result they were drawn into an ambush. Three companies of the British 41st Regiment, some Canadian militia, and a body of Indians, attacked Dudley's troops, dispersed them and either captured or massacred the whole body under the very eyes of the men they had come to succor.* The British captured 500 prisoners, while 200 or 300 more (including Dudley himself) must have been killed in battle or massacred after surrender, since only 170 of the force escaped.† On the other hand, the whole British loss hardly exceeded 50 killed and wounded.‡

Harrison, on the south side of the river, had better fortune. Several companies of the 17th and 19th regiments, some Kentucky volunteers and

militia numbering in all about 340 men assailed the whole line of British works, manned by 350 regulars and 500 Indians, and after several brilliant charges drove the enemy from their principal batteries, spiked the cannon and returned to the fort with 42 prisoners.* After the fighting of May 5, Harrison withdrew into the fort, whereupon the British batteries reopened fire and the siege continued. But within two or three days Proctor's army was so weakened that he was compelled to raise the siege. His troops were without shelter, loss in battle and sickness had rapidly weakened them, half the militia had gone home, and his Indians had deserted.† By May 8 the 1,200 Indians collected by Tecumseh had dispersed, leaving only Tecumseh and a score of other warriors in the camp.‡ Having no choice but to retire as rapidly as possible, Proctor on May 9 embarked his artillery and retreated to Malden without interference from Harrison.||

* Harrison's report to Armstrong, in Brannan, *Official Letters*, pp. 152-154, 156-158; Montgomery, *Life of Harrison*, pp. 162-163; McMullen, *History of Canada*, p. 277; Brown, *Campaigns of the Northwestern Army*, p. 48.

† Slocum, *The Ohio Country*, p. 242; Lossing, *War of 1812*, pp. 488-489.

‡ Richardson, *War of 1812*, pp. 93-94. See also the diary of J. Bonner, in *Western Reserve Historical Society Tracts*, no. xlix.; Knapp, *Maumee Valley*, p. 163; Thomas Christian, *Campaign of 1813 on the Ohio Frontier*, appended to C. C. Baldwin's *Relics of the Moundbuilders* (1874); Samuel Williams, *Two Western Campaigns in the War of 1812, in Ohio Valley Historical Series*, no. vii. (1871).

|| Montgomery, *Life of Harrison*, p. 165; Brackenridge, *History of the Late War*, p. 100.

* Richardson, *War of 1812*, p. 86; Montgomery, *Life of Harrison*, pp. 160-162; Adams, *United States*, vol. vii., pp. 105-106; McMaster, vol. iv., p. 26; Clay's report to Harrison in Fay, *Official Accounts*, pp. 92-95; Harrison's report to Armstrong in Brannan, *Official Letters*, pp. 149-151.

† Lossing, *War of 1812*, p. 486. Regarding the treatment of the prisoners see pp. 489-490, also Slocum, *The Ohio Country*, pp. 238-240.

‡ Richardson, *War of 1812*, pp. 87-88.

After the siege of Fort Meigs offensive operations were suspended until the middle of July. Harrison moved his headquarters to Upper Sandusky and to Cleveland and began to prepare for another advance under cover of an adequate force. But he was not allowed to rest, for Proctor had received word from Prevost about the middle of July that no more rations or transports could be spared from Lower Canada and that he must capture what supplies he needed from the American depots at Cleveland and Erie.* As Proctor's supplies were almost exhausted,† he lost not a moment and, gathering together a force of regulars, militia and Indians (about 500 regulars and militia and, according to various estimates, between 1,000 and 4,000 Indians) reappeared before Fort Meigs on July 20. Harrison had gone to Franklinton to organize the force expected to concentrate at that place,‡ and had left General Clay in command at the fort. On the 25th Proctor attempted to draw Clay into an ambush, but the attempt failed;|| and, as Proctor found that his Indians were growing restless and were deserting, he determined to attack Harrison's magazine

on the Upper Sandusky.* Sending the Indians forward by land, Proctor took the remainder of the army by boat along the lake shore as far as the Sandusky River, where he landed on August 1. At this place Harrison had collected his chief magazines. All the supplies for his army were at Upper Sandusky, about 30 miles above the British landing place, and he had only 800 raw recruits to defend the unfortified position.† Between Proctor and the magazines (where the town of Fremont was afterward established) was a wretched and almost untenable stockade called Fort Stephenson. Ten miles behind this, at Seneca, was Harrison with his 800 militia.‡

Learning that Tecumseh with 2,000 Indians was moving from Fort Meigs toward the lakes, thus flanking Fort Stephenson, Harrison's first thought was to evacuate Fort Stephenson so as to defend Fort Sandusky. On July 29, therefore, after a council of war, he sent a hasty order to young Major George Croghan, who commanded Fort Stephenson, directing him to fire the fort and retreat, should the enemy approach in force and with artillery.|| Though Fort Stephenson was protected by but one cannon (a six-pounder) and a garrison of 160

* Armstrong, *Notices of the War of 1812*, vol. i., p. 228.

† Richardson, *War of 1812*, p. 111.

‡ Montgomery, *Life of Harrison*, p. 167; Armstrong, *Notices of the War of 1812*, vol. i., p. 127.

|| For details see Lossing, *War of 1812*, pp. 497-499; Slocum, *The Ohio Country*, chap. xxi.

* Harrison's report of August 4, in Brannan, *Official Letters*, p. 184.

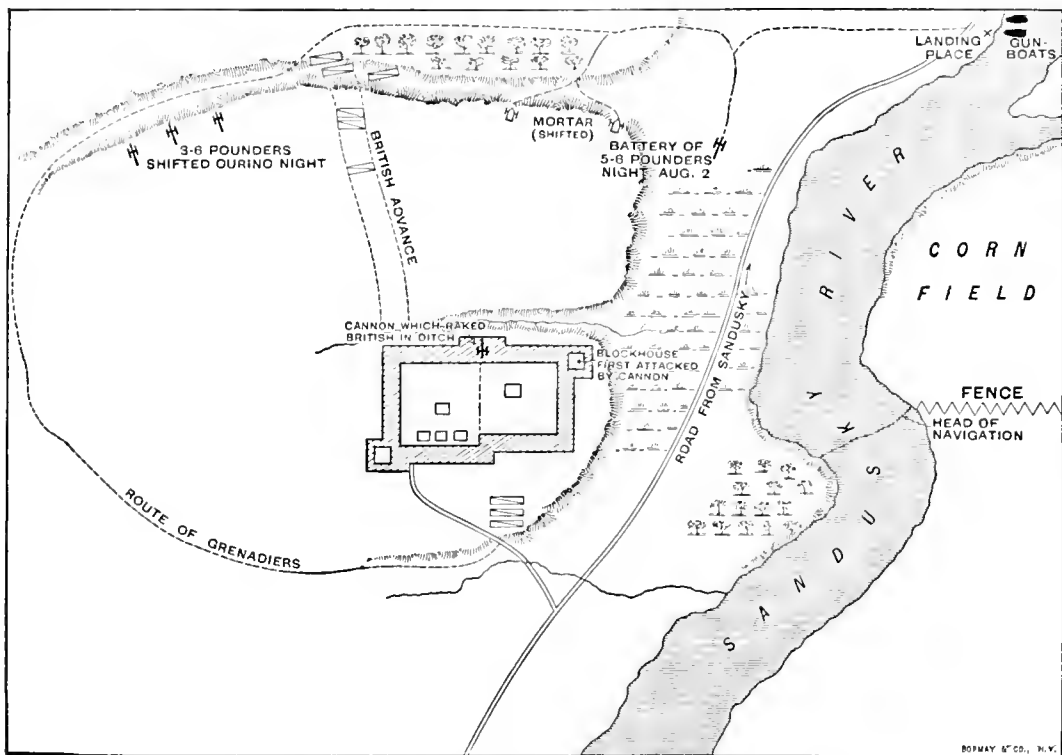
† Dawson, *Life of Harrison*, p. 408.

‡ Montgomery, *Life of Harrison*, pp. 184-185.

|| McAfee, *History of the Late War*, p. 322; Montgomery, pp. 186-187.

men.* Croghan refused to obey Harrison's order, replying, "We are determined to maintain this place and by Heaven we will."† After some argument he was allowed to retain his command.‡

that when the fort was taken none would be left to massacre, as he would not surrender while a man could fight.* Proctor then landed five 6-pounders and a howitzer, which played all night long upon the stock-



FORT STEPHENSON.

On August 1 the British boats appeared in the river and Proctor demanded the surrender of the fort, accompanying his summons with the usual threats of butchery and massacre if the garrison should refuse.¶ Croghan, however, defiantly answered

* Lossing, *War of 1812*, p. 499. Brown (*Campaigns of the Northwestern Army*, p. 51) says only 138 effective men.

† McAfee, *History of the Late War*, p. 323.

‡ Montgomery, *Life of Harrison*, p. 187; Lossing, p. 500.

¶ Montgomery, *Life of Harrison*, p. 188.

ade with little effect. At an early hour the next morning three of the 6-pounders were shifted and planted within 250 yards of the pickets. These began to play upon the fort until it became clear that they were too light to destroy the stockade.† Proctor thereupon ordered an assault.

* Brackenridge, *History of the Late War*, p. 151; Lossing, *War of 1812*, p. 501.

† Slocum, *The Ohio Country*, p. 258; Armstrong, *Notices*, vol. i., pp. 165-166; Lossing, *War of 1812*, p. 502.

At four o'clock in the afternoon all the enemy's guns were concentrated against the northwestern angle of the fort so as to make a breach. Croghan strengthened that point with bags of flour, sand and other material so that the pickets sustained little or no injury.* But the British, supposing that the pickets had been shattered by their fire, advanced to storm the place, at the same time making two feints at different points. Proctor divided his force into three columns of 120 men each,† which were to attack three sides of the fort simultaneously while the Indians stormed the fourth. But as the latter came out of the woods into the open, a steady and well-directed fire from the fort drove them back. The column advancing against the northwestern angle was so completely enveloped in smoke that it was not discovered until it had approached within 18 or 20 paces of the lines.‡ But the men behind the pickets commenced so heavy and galling a fire that the column was thrown into confusion.¶ On being rallied by their commander, Colonel Short, they leaped into the ditch with the intention of getting into the fort. As soon as the ditch was filled, Croghan ordered his one 6-pounder, which had been masked in the blockhouse, to open fire, when a large number of the

assailants were killed and many others wounded, Colonel Short among them. The second column of the storming party then advanced, but met a similar fate. The second and third discharges, together with the fire of the small arms, completed the work. The third party of grenadiers, which had made a detour to attack the fort on the southwestern angle, was assailed with a destructive fire from the fort and was compelled to retire in disorder and seek safety in an adjoining wood.* After two hours' effort the assaulting column retired, leaving 26 dead and 41 wounded and about 30 missing. The American loss was 1 killed and 7 wounded.† That night Proctor reëmbarked his troops and again fled to Malden.‡ Soon after this gallant exploit, Tecumseh, having raised the siege of Fort Meigs, followed Proctor to Detroit and all hope was abandoned by the enemy of reducing the American forts until they could gain entire ascendancy on the lake.

* Montgomery, *Life of Harrison*, pp. 189-190; Sloeum, *The Ohio Country*, pp. 258-259; Brown, *Campaigns of the Northwestern Army*, p. 51 *et seq.*

† Lossing (*War of 1812*, p. 503) gives the total British loss as 120, while Brackenridge (*History of the Late War*, p. 152) says "not less than 150."

‡ Cooley, *Michigan*, p. 186. See also Elisha Whittlesey, *Defence of Fort Stephenson* (Toledo, 1858); Everett, *History of Sandusky County*, p. 113; Dawson, *Battles of the United States*, vol. ii., p. 260; Howe, *Historical Collections of Ohio*, p. 448; Knapp, *Maumee Valley*, p. 185; *Harper's Magazine*, vol. xxvii., p. 296; McAfee, *History of the Late War*, pp. 323-328; Atwater, *History of Ohio*, pp. 226-229; Auchinleck, *History of the War of 1812*, pp. 184-187; Perkins, *History of the Late War*, pp. 223-224; James, *Military Occurrences*, vol. i., pp. 262-266.

* Croghan's report in Fay, *Official Accounts*, pp. 117-119; Montgomery, *Life of Harrison*, p. 188.

† Richardson, *War of 1812*, p. 105.

‡ Lossing, *War of 1812*, p. 502.

¶ Croghan's report in Brannan, *Official Letters*, p. 185.

CHAPTER XVII.

1812-1813.

DOMESTIC AND FOREIGN AFFAIRS.

Nominations of party candidates — Repeal of the Gerrymander law in Massachusetts — Gerrymandering in New Jersey — Changes in the Massachusetts election law — Election of Madison and Gerry — Changes in the Cabinet — Madison's message to Congress — Gallatin's report of financial conditions — Debate on exempting soldiers and the enlistment of minors — Remission of forfeitures by Congress — Passage of financial measures — Debate on impressment — Madison's second inauguration — Correspondence between Warren and Monroe — Conditions in England — Proceedings in Parliament — Offer of Czar of Russia to mediate — British circular to West India colonies — Disputes in the Cabinet — Gallatin's resignation — Failure of the National loan — Award of the unsubscribed balance to Parish, Girard and Astor — Madison's message to the special session — Webster's resolution regarding French decrees — Confirmation of ministers plenipotentiary — Passage of financial measures.

When the war opened the country was on the eve of a Presidential election. Madison almost unanimously was renominated by the Republicans. As Clinton was dead, John Langdon, of New Hampshire, was nominated for the Vice-Presidency; but as he declined to serve, Elbridge Gerry was chosen in his stead. The Federalists named no candidates, but supported the men nominated by the disappointed Republicans and the Friends of Peace — DeWitt Clinton, of New York, and Jared Ingersoll, of Pennsylvania.* In the spring elections the Friends of Peace, Union and Commerce had been remarkably successful. They had gained notable triumphs in Rhode Island and New Hampshire; in Massachusetts by means of the Gerrymander they had

carried the lower house, defeated Gerry and chosen a Federalist governor; and in New York they had gained the Assembly and made such inroads in the Senate that the Legislature was Federalist by two votes.* The Massachusetts election had not been an ordinary one; for when the election was held the people for the first time were called upon to express their opinion regarding that system of apportionment known as Gerrymandering. This had so thoroughly aroused the people that in the spring of 1813 despite the Gerrymander the Federalists gained control of the Senate and repealed the law.

New Jersey passed through a similar experience. In the October elections in that State the Republicans had a majority of the votes cast at the polls, but by a loss of 26 votes in Monmouth County and 4 in Hunter-

* Adams, *Lives of Madison and Monroe*, pp. 157-158; Schouler, *United States*, vol. ii., pp. 409-411; Stanwood, *History of Presidential Elections*, pp. 58-60.

* McMaster, vol. iv., pp. 192-193.

don the Federalists gained control of both branches of the Legislature. Carried away by this good fortune, the Federalists began to abuse their power. The Republicans had received a majority of 2,500 votes, though they had lost the Legislature. In 1807 a change had been made in the law, requiring the choice of Presidential electors to be made in districts; and an act was passed providing that the people vote for a general ticket. It was reasonably certain that, as the Republicans had a majority of 2,500 in the State elections, the electoral vote would be Republican. This the Federalists determined to prevent; and six days before the election was to take place a bill was introduced transferring the choice of electors to the Legislature. This change was resented by the Republican minority, who urged that a choice by the people at large was more agreeable to their wishes, was more in keeping with a republican form of government, and accorded with the spirit of the Federal Constitution. They contended that the old law had already been executed in part; that nominations had been made, sent to the Secretary of State and published by him; and that since the majority of the people of the State warmly supported the measures of the general government, it would be an act of tyranny and oppression to take from them the privilege of expressing this approbation by choosing Repub-

lican electors. Nevertheless the bill was passed, and eight Federalist electors were chosen. The Federalists then undertook to Gerrymander the Congressional districts. At that time six representatives from New Jersey were chosen by a general ticket. But as the Republicans had a majority of the popular vote, a bill was brought in to establish Congressional districts. Upon careful consideration of the manner of division, it was ascertained that the Federalists could not secure more than two out of the six save by dishonest methods. The Federalists thereupon resorted to the new Republican institution of Gerrymandering; and three districts sending two representatives each were so laid out that two were Federalist and the other Republican. In laying out these districts population was not considered, so that in the first district, into which many Federalists had to be introduced to overcome the Republican majority, the population was 88,000; while in the third district there were but 73,000, or three thousand more than was allowed under the law.*

During the session of June of 1812 another contest took place in the Massachusetts General Court. The first election held under the Gerrymander law had resulted in a Republican Senate and a Federalist Assembly. The late election had clearly shown that if the old method of choosing Presi-

* McMaster, vol. iv., pp. 193-195.

dential electors by a general ticket were continued, Massachusetts would cast 22 votes for Clinton. Hence the Republican Senators introduced a resolution in the Assembly providing that 20 electors be chosen in the 20 Congressional districts and 2 by general ticket. The Assembly amended the bill by providing for a general election in all the districts, but the Senate would not agree, and though many conferences were held neither side would withdraw its demands; and the General Court rose with nothing done. It was then necessary to hold a special session in October. At that time the Federalists offered to allow the choice of electors by a general ticket or by a concurrent ballot of the two Houses or by the district system. But once more the Republicans refused to yield, until a suggestion was made that the electors be chosen in districts formed of the circuits of the court of common pleas. To this the Republicans agreed; and a law making such provision was passed. This contest cost the State about \$30,000.*

By this time several States had instructed their delegates to vote for Clinton and Jared Ingersoll. The New York committee were opposed to Madison for many reasons. They said in the first place that his manner of nomination was unconstitutional, but a still stronger objection was the fact that they were opposed to Vir-

ginia influence and Virginia control. They said that New York, being a middle State, would be a fit depository of power until the jealousy and distrust existing between the Northern and Southern States had disappeared. Being commercial, she understood the sentiments of the Eastern States; and being agricultural also, she sympathized with the South. Of all the States, therefore, she was most likely to hold an even balance, and at times such as the present was well qualified to name a President. This she did in the person of DeWitt Clinton and expressed the belief that in the event of his election the war would end in six months; that our rights on the ocean would be respected; and that our impressed sailors would be released. On the other hand, if Madison were elected we should have a long disastrous war combined with heavy taxes, enormous loans, standing armies, poverty and misery.* Thenceforth Clinton became nothing more than a mere politician and used all means to secure the Presidency. He had but few followers outside of New York, but immediately set to work building up a party by every means known to the political machine of his time. He assured the war Republicans that he wished a most vigorous prosecution of the war; while the peace Republicans were informed that he was eager for peace without design. The most

* McMaster, vol. iv., p. 195.

* McMaster, vol. iv., pp. 196-197.

difficult task, however, was to bring to his support the Federalists of other States. In September a great caucus of Federalist leaders from eleven States was held at New York. It is not known what influence was used, what pledges were given, what bribes were offered, or what was said. But it is known that, after a secret and stormy session of three days, the electoral votes of the Federalists States were guaranteed to Clinton.*

From the first the Republicans had conceded 20 electoral votes to Clinton and had classed 59 as doubtful. But when the returns began to come in State after State, to the dismay of the Republicans, passed from the doubtful column to Clinton's side. There were 218 electoral votes and it was necessary that a candidate have 110 to be elected. Ohio, however, had lost one vote through the absence of an elector, and there were therefore only 217 electoral votes. In the early part of December, as the returns slowly came in, Clinton's election seemed assured; but as the returns from outlying States were counted Madison was found to have received the necessary majority. He received 128 votes against 89 for Clinton, while Gerry received 131 for Vice-President against 86 for Ingersoll.† The complete vote by State was as follows:

Number of electoral votes	STATES	PRESIDENT		VICE-PRESIDENT	
		James Madison, Virginia	De Witt Clinton, New York	Elbridge Gerry, Mass.	Jared Ingersoll, Penn.
8	New Hampshire.....	.....	8	1	7
22	Massachusetts.....	.....	22	2	20
4	Rhode Island.....	.....	4	.....	4
9	Connecticut.....	.....	9	.....	9
8	Vermont.....	8	.....	8	.....
29	New York.....	.....	29	.....	29
8	New Jersey.....	.....	8	.....	8
25	Pennsylvania.....	25	.....	25	.....
4	Delaware.....	.....	4	.....	4
11	Maryland.....	6	5	6	5
25	Virginia.....	25	.....	25	.....
15	North Carolina.....	15	.....	15	.....
11	South Carolina.....	11	.....	11	.....
8	Georgia.....	8	.....	8	.....
12	Kentucky.....	12	.....	12	.....
8	Tennessee.....	8	.....	8	.....
7	Ohio.....	7	.....	7	.....
3	Louisiana.....	3	.....	3	.....
217	Total.....	128	89	131	86

Almost coincident with the election came changes in the personnel of the President's Cabinet. The defeats of Hull, Van Rensselaer, Smyth, and Dearborn had resulted in the resignation of the Secretary of War Eustis on December 12. Madison considered this as an opportune time to strengthen his Cabinet, and it is supposed that he requested the resignation of Paul Hamilton as Secretary of the Navy for this purpose. To fill the vacant post, Madison sent a message to Congress on January 8, 1813, with the nominations of John Armstrong as Secretary of War and William Jones as Secretary of the Navy. These nominations were confirmed by the Senate without opposition, and in February of 1813 the men were in office. These changes left no one except Gallatin who had served in the Cabinet under Presi-

* McMaster, vol. iv., pp. 199-200; Adams, *United States*, vol. vi., pp. 410-411.

† Stanwood, *History of Presidential Elections*, p. 62; Schouler, *United States*, vol. iii., p. 520.

dent Jefferson. Attorney-General Rodney had resigned the year before; and on December 10, 1811, William Pinkney, late minister of London, had been nominated to succeed him.*

Before these men had been installed in office, however, the second session of the Twelfth Congress had convened. On November 4, 1812, President Madison sent in his annual message to both Houses.† He entered upon a full account of the various important movements and occurrences of the year; related Hull's operations and surrender; mentioned the refusal of Massachusetts and Connecticut to allow the militia to leave the State; recommended attention to a revision of the militia laws, an enlargement of the navy, a revision of the navigation laws, etc. The receipts of the Treasury, he stated, had been \$16,000,000, which sum was sufficient to meet all the expenses of the Government and to discharge nearly \$3,000,000 of the public debt.‡

The President's message, however, was silent in regard to the financial

* McMaster, vol. iv., p. 28; Adams, *United States*, vol. vi., chap. xix.

† Richardson, *Messages and Papers*, vol. i., pp. 514-521; *Annals of Congress*, 12th Congress, 2d session, pp. 11-15; Benton, *Abridgment*, vol. iv., pp. 567-569.

‡ According to Gallatin's report of December 1 for the year ending September 30, 1812, the receipts and expenditures were as follows:

RECEIPTS.	
Customs, sales of lands, etc.....	\$10,934,946.90
On account of loan of \$11,000,000 by act of March 14, 1812.....	5,847,212.50
	\$16,782,159.40
Balance in Treasury, October 1, 1811.	3,947,818.36
	<u>\$20,729,977.76</u>

wants of the Government, and this was left to the Secretary of the Treasury. His report was sent to the House December 7 and announced that the sum of \$20,000,000 must be borrowed for the coming year. The military expenses were estimated at \$17,000,000, the naval expenses at \$4,925,000, and the civil expenses at \$1,500,000, beside interest on the public debt of \$3,300,000 and reimbursements on loans, treasury notes, etc. reaching \$5,200,000 more, the grand total being \$31,925,000. This estimate omitted every expenditure which had not already been authorized by law, such as the proposed increase of army and navy. Gallatin estimated that the revenue for the year would be about \$12,000,000, of which \$500,000 was from sales of public land, thus leaving a sum of not less than \$20,000,000 to be borrowed with an increase of debt to the amount of \$15,000,000.* After the President's message was read the Republicans en-

DISBURSEMENTS.

Civil Department, foreign intercourse.	\$1,823,069.35
Army, militia, forts, etc.	\$7,770,300.00
Navy Department	3,107,501.54
Indian Department	230,975.00
	<u>11,108,776.54</u>
Interest on debt.	\$2,498,013.19
On account of principal.	2,938,465.99
	<u>5,436,479.18</u>
	<u>\$18,368,325.07</u>
Balance in Treasury September 30, 1812.....	2,361,652.69
	<u>\$20,729,977.76</u>

See Stevens, *Albert Gallatin*, p. 218; *American State Papers, Finance*, vol. ii., pp. 580-581; *Annals of Congress*, 12th Congress, 2d session, pp. 263-267.

* *American State Papers, Finance*, vol. ii., pp. 580-581; Adams, *United States*, vol. vi., pp. 432-433. See also Bolles, *Financial History*, p. 225.

tered upon a discussion of measures for a more vigorous prosecution of the war. On November 19 David R. Williams, chairman of the Committee on Military Affairs, introduced a bill increasing the pay of the troops to \$8 per month and exempting them from arrest for debt contracted before or after their enlistment.* An attempt was made also to allow the enlistment of minors above the age of eighteen without the consent of parents, guardians, or masters. The clause of the bill which exempted soldiers from arrest for debt, which was necessary in order to prevent gross frauds, met with little opposition. Bacon, of Massachusetts, stated that a man would enlist and then contract a fictitious debt above the sum of \$20 and cause himself to be arrested. He would then give bail and would be set free, but would not return to camp.† If the commanding officer should have him seized, a writ of *habeas corpus* would be sued out and the soldier be set at liberty again; for under a ruling of the courts a debtor was the property of his bail until the suit had been decided. Such a decision, however, would never be allowed to take place, but would be continued from term to term so long as the enlistment lasted. Meanwhile the man drew pay and bounty. Seri-

ous objection was made to that clause allowing the enlistment of minors. On this subject Josiah Quincy made a vigorous speech.* He said that the bill would not remedy the evil of which the President complained. The difficulty was that men could not be enlisted. It was not a pecuniary but a moral motive that was wanting to fill the armies. If the administration would abandon the project of invasion, would fortify the cities or silence the Indians on the frontier, remove the shackles from commerce and the rigid restraints from ships and seamen, there would be no want of men, money or spirit. He said that if minors were allowed to be enlisted, slaves should be allowed to do the same. In the South all the industry was conducted by slaves. In the North it was conducted by the yeomanry, their apprentices and their children. In the South the planter regarded his 50, 100 or 1,000 slaves as his property, whereas the farmer of the North had only one or two children of whom he could say, "These are my ornaments." This bill proposed to take these ornaments from him or in other words to bribe them out of his service, at the very age when the desire for freedom was the most active and the splendor of false glory the most enticing. But the slaves were safe, since in the bill was no provision for their manumission. Take a slave from his master on any

* *Annals of Congress*, 12th Congress, 2d session, pp. 153, 155 *et seq.*; Benton, *Abridgment*, vol. iv., p. 581 *et seq.*; Lossing, *War of 1812*, p. 465.

† *Annals*, p. 145.

* *Annals*, pp. 167-175; Benton, *Abridgment*, vol. iv., pp. 585-587.

principle and there would be an earthquake; but to bribe an apprentice from his master or to seduce a son from a father was but a common affair. He said that if this law were passed and "If the Legislatures of the injured States do not come down upon your recruiting officers with the old laws against kidnapping and man-stealing, they are false to themselves, their posterity and their country." This speech stirred up much ill feeling and considerably ruffled the temper of David R. Williams, who said that if Massachusetts carried out her threat and arrayed herself against the Government, he would not hesitate to use force to subdue her.* Nevertheless, by a vote of 64 to 37, the House passed the bill with the clause intact. But the Senate struck it out and in this form the bill became law December 12.† The Executive was authorized also to raise additional regiments not exceeding twenty, to appoint six major-generals and six brigadier-generals, and to raise ten companies of rangers for the defence of the frontiers.‡ So high had the navy risen in the estimation of the dominant party that Congress now authorized the President to have constructed four 74-gun ships, six frig-

ates and six sloops of war.* Other bills were passed to increase the bounty, to give pensions to naval officers, etc.†

The House now turned its attention to providing funds to meet the various expenses. In a letter accompanying his annual report Gallatin suggested the means of raising the deficit of \$20,000,000. The Non-intercourse Act of March 2, 1811, provided that, should Great Britain rescind or change her Orders in Council so that the neutral commerce of the United States would not longer be injured, the President should proclaim the fact and intercourse would be restored. The President's proclamation was to be the only evidence of the repeal of the Orders and the opening of the ports. On June 23, 1812, Great Britain recalled her Orders and in reliance on the Non-intercourse Act American ships then in England were loaded with British merchandise and set sail for America. The declaration of war five days before the British repeal rendered inoperative the Non-intercourse Act, so that the importers were liable not only to capture by the public and private armed vessels of both countries but also to confiscation of their property by the Government on their arrival in the United States. The cap-

* *Annals*, pp. 175-177; Benton, *Abridgment*, vol. iv., pp. 588-589.

† For the entire debate, see *Annals*, pp. 155-193; Benton, *Abridgment*, vol. iv., pp. 581-592.

‡ *Annals*, pp. 1318-1319, 1322-1326, 459-509, 512-843; Benton, *Abridgment*, vol. iv., pp. 611-702.

* *Annals*, pp. 201-210, 404-430, 435-438, 443-450; Benton, *Abridgment*, vol. iv., pp. 598-606, 608-611.

† Lossing, *War of 1812*, pp. 466-467; *Annals*, pp. 1315, 1317; McMaster, vol. iv., pp. 205-206; Adams, *United States*, vol. vi., pp. 436-437.

tains of these vessels knew nothing of the declaration of war when they sailed, as news of that act did not reach England until July 30; and they were not apprised of the fact until captured by privateers or seized and libelled by the custom-house officials upon arrival in port. Under the law of forfeiture one-half was vested in the custom-house officers or informers and the other half in the Secretary of the Treasury; while the power to remit, either wholly or partly, was vested in the Secretary of the Treasury. No one expected the Government to exact the full forfeiture, since these importations had been made in good faith and the property was chiefly American. But Gallatin took the view that the trade was illegal and ordered the collectors to admit the goods upon payment of the duties and after bond had been given. The Treasury thus came into possession of about \$18,000,000 in bonds and \$5,000,000 in duties.* The importers appealed to Congress and that body on December 23 by a vote of 64 to 61 remitted all forfeitures on goods owned by Americans and shipped before September 15.† Nothing remained, therefore, as a means of collecting money but taxation or loans.

* Adams, *United States*, vol. vi., pp. 438-439; McMaster, vol. iv., pp. 206-207.

† Adams, *United States*, vol. vi., pp. 439-443; McMaster, vol. iv., pp. 207-208. For the debate, see *Annals of Congress*, 12th Congress, 2d session, pp. 198-199, 214-215, 217-263, 267-349, 355-361, 364-404, 428-429, 441-443, 450-451. For Gallatin's report, the petitions, etc., see *ibid.*, pp. 1251-1275, and for text of law, p. 1316.

Of taxes the war leaders would hear nothing, and they had no great difficulty in carrying their point. By this time the presidential election had taken place, the members of the Thirteenth Congress had been chosen, and it had become evident that the war had not so many supporters as previously, save in the South and Southwest. This was the region where internal taxation would be most unpopular and most likely to be resisted. Cheves was anxious to restore the freedom of commerce and to support his scheme obtained a letter from Gallatin February 9, 1813, expressing the opinion that if the increased expenditures authorized by law were to be met, Congress must not only impose war taxes both external and internal but must also repeal the Non-intercourse Act. On February 15 Cheves introduced a bill suspending this act in part but continuing it against articles specially enumerated.* On the 17th by a vote of 69 to 47 the House instructed the Committee of Ways and Means to report tax bills,† although Cheves complained that no system of taxation could possibly be adopted within the fortnight that remained of the session. Evidently he regarded the motion as a manœuvre to save the Non-intercourse Act; and he was all the more convinced of this when on February

* *American State Papers, Finance*, vol. ii., p. 613; *Annals of Congress*, 12th Congress, 2d session, pp. 1062-1065; Benton, *Abridgment*, vol. iv., pp. 713-714.

† *Annals*, pp. 1076-1079; Benton, pp. 715-716.

20 Elisha Potter, of Rhode Island, declared that his constituents had invested \$4,000,000 or \$5,000,000 in manufactures that were protected by the act and that Cheves' bill would sacrifice the interests of the manufacturing States and ought not to pass.* This indicated a great change of attitude in the New England States. New England had already begun to abandon commerce and create manufactures which she wished to protect. While every Federalist newspaper in the country denounced the restrictive system nearly every Federalist in the House voted in its favor. Accordingly, that part of Cheves' bill which suspended the Non-intercourse Act was struck out by the Committee of the Whole by a vote of 79 to 24 and his bill was converted into a measure for the stricter enforcement of non-importation.† In this shape the bill passed by a vote of 67 to 45.‡

This cut off another means of obtaining revenue and nothing remained but to depend upon loans and to call an extra session to consider the imposition of taxes. Accordingly, a law was passed authorizing the President to borrow \$16,000,000 on such terms as might be demanded, the bill passing by a vote of 75 to 38.¶ Another bill immediately followed for an issue

of \$10,000,000 of Treasury notes, of which (if this sum were issued) \$5,000,000 were to be considered as part of the \$16,000,000 loan which was then to be reduced to \$11,000,000.* These were to be one year notes, were to bear interest at 5 2 5 per cent., and were to be legal tender in payment of all taxes and duties laid by Congress and of all public lands sold by order of Congress.† This ended the financial work of the session; but rather than wait until the regular session of the next Congress to enact further financial legislation, an extra session was called to convene on the fourth Monday in May.‡

Meanwhile Congress had taken up the subject of impressment. On June 26, 1812, Monroe had directed Jonathan Russell to offer to the British government to prohibit by act of Congress the employment of British seamen in the public or private marine of the United States.¶ Lord Castlereagh, on behalf of his government, rejected these proposals as wholly inadmissible. England would never consent to forego the right of impressment, he said, though the British government was willing to discuss any proposition tending to check abuses in the exercise of this right. Russell found his efforts to obtain anything

* *Annals*, p. 1092.

† *Ibid.*, pp. 1091-1100.

‡ *Ibid.*, pp. 1105-1109; Adams, *United States*, vol. vi., pp. 446-448.

¶ Stevens, *Albert Gallatin*, p. 219; Bolles, *Financial History*, p. 225. For text, see *Annals*, pp. 1326-1328.

* For the debate on these measures, see *Annals of Congress*, 12th Congress, 2d session, pp. 869-920.

† *Annals*, pp. 1330-1333.

‡ McMaster, vol. vi., pp. 448-449.

¶ *American State Papers, Foreign Relations*, vol. iii., p. 585; *Annals of Congress*, 12th Congress, 2d session, pp. 1173-1175.

conclusive unavailing and returned home in September.* The subject was brought before Congress by the President's annual message and was referred to the Committee on Foreign Affairs. On January 29, 1813, Grundy made a report in which it was asserted that impressment alone prevented an armistice.† The danger of committing the government to a *sine qua non* which it might have to abandon was becoming more evident every day; for Napoleon was suffering reverse after reverse and the chance of driving England into an expressed surrender of impressment would vanish. Grundy therefore reported a bill to serve as the groundwork for peace. The bill began by a prospective reciprocal prohibition after the termination of a peace treaty to employ on any public or private vessels none but actual citizens of the United States or persons resident in the United States at the time of such treaty who had previously declared their intention to become citizens of the United States. With these exceptions, all foreign seamen were to be dismissed from the American service.‡ Though there were many objections to this bill, it passed the House by a vote of 89 to 33 and on February 12 was sent to the Senate.§ After sharp opposition it was amended by that body and passed

February 27 by a vote of 18 to 12.* In its adopted form the objectionable clause had been omitted but in an indirect way the same result had been reached. The important clause was as follows:

"From and after the termination of the war * * * it shall not be lawful to employ on board any of the public or private vessels of the United States any person or persons except citizens of the United States, or persons of color, natives of the United States. * * * No person who shall arrive in the United States, from and after the time when this act shall take effect, shall be admitted to become a citizen of the United States, who shall not, for the continued term of five years next preceding his admission as aforesaid, have resided within the United States, without being, at any time within the said five years, out of the territory of the United States."†

Numbers of leading Republicans denounced this measure as very feeble, but it met with the approval of the people and received Madison's signature on March 2. The next day the Twelfth Congress expired.‡ With it Madison's first term of service was brought to a close and the next day he was inaugurated for the second time.||

Meanwhile, as we have seen, Jonathan Russell had failed to secure any concessions from the British government and had departed from England. The correspondence with Lord Castlereagh closed September 19, but not

* *Ibid.* p. 111.

† *Ibid.* pp. 1339-1342.

‡ Adams, *United States*, vol. vi., pp. 455-458; Lossing, *War of 1812*, pp. 468-469.

§ For the inaugural address, see Richardson, *Messages and Papers*, vol. i., pp. 524-526; *Annals of Congress*, 12th Congress, 2d session, pp. 121-124; Benton, *Abridgment*, vol. iv., pp. 575-576.

* For the correspondence, see *Annals*, pp. 1175-1197.

† *Annals*, pp. 932-940.

‡ Adams, *United States*, vol. vi., pp. 452-453.

§ *Annals*, pp. 960-1010, 1017-1019, 1022-1055.

until October 13, after learning that Madison had refused to ratify the armistice made by Prevost with Dearborn, did the British government order general reprisals. On September 30 Admiral Warren sent a letter to Monroe proposing that hostilities between the two countries cease immediately. Should this be agreed to, he was authorized to arrange for the repeal of the laws and regulations against British commerce and the entrance of British ships of war into our harbors; but if his propositions were rejected, he said that the Orders in Council repealed the previous June would be revived.* On October 27, having learned the ill success of Russell's efforts at London, Monroe replied to Warren expressing the willingness of the Government to take any measures which might lead to honorable peace between the two nations; but he said that until the subject of impressment had been disposed of a durable peace was unlikely.† As the British admiral was not authorized to enter upon negotiations with this object in view, the United States had no alternative but to continue the war and to prosecute it as vigorously as possible.

The uselessness of trying to obtain peace on any terms was made clear at the same time by the interference

of the Russian Czar. The news that America had declared war against England reached St. Petersburg in August, more than a month after Napoleon had declared war against Russia. The American minister at the Russian Court was in a delicate position. The American Government had declared war against England, and for military purposes had become an ally of France at a moment when Russia entered into an alliance with England to make war on France. If Napoleon should crush the Russians, the American minister could expect little favor from the Russian Court, whereas if Napoleon were defeated the American minister could expect no consideration, for every influence at the Russian Court was certain to be British and from England the Americans could expect no favors. Nevertheless, in spite of disheartening reverses (Napoleon having occupied Moscow September 14), the Czar found time to think of American affairs. On September 21, 1812, Count Romanzoff, in the name of the Czar, asked Adams if an offer of mediation on the part of the Czar would meet with any opposition from the United States. Adams said that on the contrary it would be a new evidence of the Czar's friendship,* but suggested that the British government ought to be consulted. Roumanzoff answered that the British minister had already written to

* *American State Papers, Foreign Relations*, vol. iii., pp. 595-596; *Annals of Congress*, 12th Congress, 2d session, pp. 1197-1198.

† Adams, *Lives of Madison and Monroe*, pp. 164-165; *American State Papers, Foreign Relations*, vol. iii., p. 596; *Annals*, pp. 1198-1200.

* Quincy, *Memoir of John Quincy Adams*, pp. 56-57.

Lord Castlereagh on the subject. On September 30 Adams advised the American government of the Czar's proposed mediation and two weeks later Roumanzoff announced that the proposal was ready and would be sent at once to Washington, which was done before a reply had been received from London. Castlereagh had every reason to conciliate the Czar, and rather than absolutely reject a suggestion from that source, replied that he thought the time had not yet come and that America would not accept the offer. Thus the offer of Russia's mediation went to America without positive objection from England.*

With news of the Russian offer the tale of Napoleon's disaster went across the ocean. Late in October he began his retreat from Moscow; early in December abandoned the remnant of his army; and toward the middle of the month suddenly appeared at Paris, still powerful though in great danger. This event was calculated to support the Russian mediation in the President's mind, for the Czar's friendship gained added value through the possibility of remaining without a friend in the world while carrying on a war without hope of success. Almost simultaneously with the arrival of these two pieces of news came word from England that

on December 26, 1812, the British government had officially announced the blockade of the Chesapeake and the Delaware. The Americans held that this blockade was a paper blockade and illegal, since it professed to blockade a coast and not a port. No matter what they called it, they could not successfully disprove its efficiency, since exportation of American produce from Chesapeake Bay, Delaware River and Vineyard Sound ceased immediately. Another measure of the British government provoked more protest even than the blockade. On November 9 a circular was sent to the governors of the West India colonies by the British government authorizing them to issue licenses for importation of necessary supplies during the war. In issuing a proclamation January 14, 1813, the governor of the Bermudas said that whatever importations were proposed to be made from the United States should be confined to the ports in the Eastern States.* This would seem to indicate a favorable disposition toward New England and must have been meant to be more or less secret, for its publication would be likely to counteract its effect. This aroused Madison's indignation and on February 24, 1813, he sent a special message to Congress in which he said:

"The policy now proclaimed to the world introduces into her modes of warfare a system

* *American State Papers, Foreign Relations*, vol. iii., p. 626. See also the *Diary of J. Q. Adams*, vol. ii., p. 401 *et seq.*; *Adams, United States*, vol. vii., pp. 26-29.

* *American State Papers, Foreign Relations*, vol. iii., p. 608.

equally distinguished by the deformity of its speeches and the depravity of its character, having for its object to dissolve the ties of allegiance and the sentiments of loyalty in the adversary nation, and to seduce and support its component parts the one from the other.

* * * * *

"The better to guard, nevertheless, against the effect of individual cupidity and treachery and to turn the corrupted projects of the enemy against himself, I recommend to the consideration of Congress the expediency of an effectual prohibition of any trade whatever by citizens or inhabitants of the United States under special licenses, whether relating to persons or ports, and in aid thereof a prohibition of all exportations from the United States in foreign bottoms."

As Congress was about to adjourn, however, nothing was done in regard to the President's recommendations.

While the news from Europe gave ground for deep reflection, the situation in the Cabinet gave cause for deeper reflection. Hardly had Armstrong entered the Cabinet when he set the members of the Administration at odds. The factious days of Robert Smith returned and the President found the task of maintaining discipline in the Cabinet as great as it was in the army. Armstrong quarreled with Monroe regarding the appointment of the latter to the chief command of the army to which Monroe thought he was entitled.† Armstrong then offended Gallatin who of all men was the most important to the Administration in this crisis. Armstrong represented everything antagonistic to Gallatin. His methods were arbitrary and underhanded;

he was needlessly lavish in his expenditures and used his patronage for only one possible purpose. On March 18, 1813, Armstrong appointed William Duane of the *Aurora* to the post of adjutant-general. The appointment was improper and the more scandalous for the motives which prompted the appointment than from the unfitness of the person. This greatly angered Gallatin who wrote to Nicholas on May 5, 1813, that Duane's appointment had so disgusted him that he had no desire to be associated longer with those who had appointed him.* Gallatin had little sympathy with Armstrong's methods of conducting business, for his idea was simplicity, economy, and purity. The providing of money for wasteful expenditure was his particular abhorrence. As far back as November 8, 1809, he had written to Jefferson as follows:

"I cannot consent to act the part of a mere financier, to become a contriver of taxes, a dealer of loans, a seeker of resources for the purpose of supporting useless bables, of increasing the number of idle and dissipated members of the community, of fattening contractors, pursers, and agents, and of introducing in its ramifications that system of patronage, corruption, and rottenness which you so justly execrate."‡

This ideal Gallatin carried with him throughout his term of service as Secretary of the Treasury, and when he saw methods introduced which were antagonistic to his ideals he resolved that he would no longer

* Richardson, *Messages and Papers*, vol. i., pp. 522-523.

† For details of the quarrel, see Adams, *United States*, vol. vii., p. 35.

* Adams, *Life of Gallatin*, p. 482.

‡ Gallatin's *Writings*, vol. i., pp. 465-466; Adams, *Life of Gallatin*, p. 408.

be associated with the person who was responsible for them.*

At this most inopportune time the Czar's offer of mediation came from Washington. It was forwarded to Monroe on March 8 and on March 11 Monroe accepted the offer.† The character of the mission was a matter hard to determine. Adams, who was then at St. Petersburg, might have been empowered to act without further form, but the President and his advisers seemed to think that more weight and political effect would be given to the measure if other negotiators were added to the mission. They decided to send two new envoys to join Adams, one of whom should be a Federalist. James A. Bayard, of Delaware, was chosen as the Federalist, and as Gallatin requested to be appointed to the mission, the President consented and Monroe acquiesced although he saw the consequence to the Cabinet and the Treasury. The President did not wish to lose Gallatin's services, however, and rather than accept a resignation as Secretary of the Treasury, allowed the Secretary of the Navy to act as head of the Treasury until Gallatin's return. Gallatin seemed to think that his separation from the Treasury was final, but made his arrangements in accordance with the President's wishes.‡

Before he could depart, however, he was obliged to complete the financial arrangements for the coming year. The most important was the loan of \$16,000,000. As the Treasury was on the verge of bankruptcy, subscription books were opened in all the principal towns almost immediately after the act became law. Everything seemed favorable for a liberal subscription. It was hoped that the appearance of the British fleet on the coast and the blockade of our harbors would arouse the people to provide liberally for a vigorous prosecution of the war. But the results were disappointing. On March 12 to 13, 1813, when the books closed, only \$3,956,400 of the loan had been taken.* The books were again opened from March 25 to 31, and on March 18 a circular was issued asking for proposals in writing for the purchase of so much of the loan as should remain untaken on April 1.† The new subscription yielded only \$1,881,800,‡ whereupon Gallatin began negotiations with New York capitalists who sent in proposals for nearly \$10,000,000 more of the loan than remained to be taken. This offer was accepted by Gallatin, though the capitalists demanded \$100 in 6 per cent. stock for every \$88 subscribed — a

* *American State Papers, Finance*, vol. ii., p. 646; Stevens, *Albert Gallatin*, p. 220; Bolles, *Financial History*, p. 226.

† *American State Papers, Finance*, vol. ii., p. 626.

‡ *Ibid.*, p. 646; Stevens, *Albert Gallatin*, pp. 220-221; Bolles, *Financial History*, p. 226.

* Adams, *United States*, vol. vii., pp. 39-41.

† *American State Papers, Foreign Relations*, vol. iii., p. 624.

‡ Adams, *Life of Gallatin*, p. 483.

premium of \$13.64 on every \$100 loaned. As the Treasury was bankrupt, Gallatin awarded \$7,000,000 to David Parish and Stephen Girard, and \$2,056,000 to John Jacob Astor. These men took also \$500,000 at par, but for so doing received a 13-year annuity of 1½ per cent. over and above 6 per cent.* The bargain was a hard one but the needs of the government were pressing. Indeed, on April 7 when the bargain was completed, the Treasury was empty and the drafts of the other departments could not be met.† Money must be had no matter what the price. Now, however, with \$16,000,000 in hand, \$5,000,000 of Treasury notes and an estimated revenue of about \$9,000,000, the Treasury was in good shape. On April 17 Gallatin allotted to the Secretary of War an appropriation of \$13,250,000 and to the Secretary of the Navy an appropriation of \$4,500,000, which had been made by Congress and which could not be exceeded without the consent of that body. This done, Gallatin bade farewell to the Treasury and on May 9 sailed with Bayard for Russia.‡

Federalists whose animosity to the war was not at all lessened by what had occurred since the outbreak of hostilities spared no efforts to prevent the loan being taken in the New

England States. In that section of the country less than \$500,000 had been subscribed and Federalist newspapers gloated over the fact that \$75,000 only had been subscribed at Boston for "heating the war poker."* When the next Congress met and the conditions of the loan were reported a great outcry went up, but the men who were loudest in their condemnation of Gallatin's bargain were those who in the hour of need gave neither money nor services to the country.†

According to appointment, the extra session of the Thirteenth Congress assembled on May 24, 1813.‡ The House once more chose Henry Clay for Speaker, who upon taking his seat placed John W. Eppes at the head of the Committee of Ways and Means. On the 25th the President's message was read.|| It consisted chiefly of a resumé of the progress of the war. He held out hopes that peace would soon be restored and gave a reassuring account of the National finances. During the preceding

* Dewey (*Financial History*, p. 133) distributes the subscriptions geographically as follows: States east of New York, \$486,700; New York, \$5,720,000; Philadelphia, \$6,858,400; Baltimore and the District of Columbia, \$2,393,900; Virginia, \$187,000; Charleston, S. C., \$354,000.

† McMaster, vol. vii., p. 210.

‡ As to the membership of Congress at this time, see Adams, *United States*, vol. vii., pp. 48-52; Schouler, *United States*, vol. ii., pp. 419-420.

|| Richardson, *Messages and Papers*, vol. i., pp. 526-530; *Annals of Congress*, 13th Congress, 1st session, pp. 14-17; Benton, *Abridgment*, vol. v., pp. 5-7.

* *American State Papers, Finance*, vol. ii., pp. 646-647; Bolles, *Financial History*, pp. 226-227.

† Adams, *Life of Gallatin*, p. 477.

‡ McMaster, vol. iv., pp. 209-210; Adams, *United States*, vol. vii., pp. 44-46; Stevens, *Albert Gallatin*, p. 221.

six months (October 1, 1812 to March 1, 1813) the receipts into the Treasury from all sources, loans and Treasury notes included, were \$15,412,000. Though the expenditures during the same period had amounted to \$15,920,000, there still remained for the next half year a balance in the Treasury of \$1,856,000.* The real difficulty, however, which pressed upon the Government, had to be stated, and in so doing Madison said:

"This view of our finances, whilst it shows that due provision has been made for the expenses of the current year, shows at the same time, by the limited amount of the actual revenue and the dependence on loans, the necessity of providing more adequately for the future supplies of the treasury. This can be best done by a well-digested system of internal revenue in aid of existing sources, which will have the effect both of abridging the amount of necessary loans and, on that account, as well as by placing the public credit on a more satisfactory basis, of improving the terms on which loans may be obtained.
* * * "

Accordingly Gallatin's tax bills were reported to the House June 10. These included a direct tax of \$3,000,000, a stamp tax, a tax on salt, licenses, auctions, carriages, sugar and spirits, and a complete machinery for assessing and collecting these odious and oppressive imposts.† Hardly had this been done when on June 10 Webster threw the House into commotion by presenting a series

of resolutions in relation to the French decrees which called upon the President to state when, by whom, and how the Government had received the first intelligence of the decree of April 28, 1811, which purported to repeal the Berlin and Milan decrees.* It had been stated that on May 12, 1812, Joel Barlow was informed by the Duke of Bassano that a decree had been promulgated on April 27, 1811, repealing the Berlin and Milan decrees. Barlow expressed surprise and amazement that this decree had been concealed for a year. He was told that it had been sent to the French minister at Washington to be communicated to the United States government. If this were true, then Madison was guilty of concealing a decree which would have saved the country untold evils, and Webster introduced the resolutions to ascertain the truth. Madison neither affirmed nor denied the assertion and the Republicans dared not fling back the falsehood, for such it was, as no one now doubts that Bassano lied. Yet, the debates were carried on with much bitterness on both sides before the resolutions were sent to Madison.‡ It was in such debates that a greater part of the time during this session was passed, scarcely anything of importance being accomplished.

* For Jones' report submitted June 3, 1813, see *American State Papers, Finance*, vol. ii., pp. 622-627; *Annals*, pp. 127-131.

† *American State Papers, Finance*, vol. ii., pp. 627-637; *Annals of Congress*, 13th Congress, 1st session, pp. 148-149; Benton, *Abridgment*, vol. v., pp. 17-18.

* *Annals*, pp. 149-151; Benton, vol. v., pp. 18-19; Curtis, *Life of Webster*, vol. i., pp. 109-110; McMaster, *Life of Webster*, pp. 75-76; Tefft, *Life of Webster*, pp. 137-150.

‡ McMaster, vol. iv., pp. 214-215; Adams, *United States*, vol. vii., pp. 55, 58.

While the House was busy with these unpleasant subjects, the Senate took up the President's recent nominations. He had nominated Albert Gallatin, James A. Bayard, and J. Q. Adams plenipotentiaries to negotiate treaties of peace and commerce with Great Britain and a treaty of commerce with Russia. Jonathan Russell had been nominated plenipotentiary to Sweden. Rufus King immediately demanded to know the authority under which the Treasury was to be administered during Gallatin's absence. On June 7 the President answered that the Secretary of the Navy would perform the duties of the Secretary of the Treasury under authority of an act of Congress of 1792.* The Senate voted, however, that the functions of the Secretary of the Treasury were incompatible with those of an envoy extraordinary,† but Madison now fell ill and nothing more was done until late in July. Madison did not wish to sacrifice Gallatin and hoped that firmness would carry the point.‡ On July 19 a Senate committee called upon Madison, but he refused to discuss the appointment,|| whereupon the Senate, without further discussion, rejected Gallatin's nomination by 18 votes to 17, almost on the same day

on which he reached St. Petersburg.* Adams and Bayard, however, were confirmed.†

The most important measures passed by Congress related to the National finances. The passage of the tax bills according to Gallatin's plan was of the utmost importance, since it formed an epoch in the history of the Republican party and in that of the country at large. Democracy at least became reconciled to internal taxation and the Republicans replaced on the statute books every one of the Federalist taxes they had wiped out in 1802 and against which they had struggled for several years. When the Thirteenth Congress met, the two parties exactly reversed their previous positions. The Federalists became the enemies of taxation while the Republicans became its advocates, and before the end of the session had passed acts taxing pleasure carriages, refined sugars, salt, auction sales, licenses for distilleries and for retailing wine, spirits, and foreign goods, with stamp duties on bank notes, bills of exchange, and other notes (which taxes were expected to produce \$2,000,000 annually); imposed a direct tax (amounting to \$3,000,000) on houses, lands, and slaves at their assessed value; and brought back all the machinery of assessment and col-

* *Annals of Congress*, 13th Congress, 1st session, p. 85; Benton, *Abridgment*, vol. v., p. 10.

† *Annals*, p. 86; Benton, p. 10.

‡ See his *Works* (Congress ed.), vol. ii., p. 566.

|| For the report of the committee, see *American State Papers, Miscellaneous*, vol. ii., pp. 217-218; *Annals*, p. 88.

* *Annals*, p. 89; Benton, p. 11; Schouler, *United States*, vol. ii., p. 422.

† Adams, *Lives of Madison and Monroe*, p. 171; McMaster, vol. iv., p. 217; Adams, *United States*, vol. vii., pp. 59-62.

lection and turned loose throughout the length and breadth of the land the tax gatherer and what they had once denominated his minions.* But the advantages expected from this resumption of the system of internal taxation, which Jefferson himself had so earnestly denounced, could not be enjoyed before the following year;† and for the current year another loan of \$7,500,000 was authorized, but the act contained a stipulation that no certificates of the stock should be sold at less than 88 per cent.‡ Proposals were then invited and the offers were somewhat better than those of the previous loan, averaging \$88.25 for every \$100 in stock.§ The Treasury notes, \$5,000,000 of which had been

issued, were, however, at a great discount, and though the former loan had been taken at par for 6 per cent., the second loan, apparently taken at the same rate, was paid in depreciated currency. The finances were, as a matter of fact, in a serious state of embarrassment. With the exception of a few banks in New England, specie payments had been suspended throughout the country; the demands upon the Treasury had far exceeded what had been anticipated; and when the militia was called out, all — and particularly those of the Middle States — were found insufficiently clothed and equipped in every respect.* After having arranged for the finances, Congress adjourned on August 2, 1813.

* Bolles, *Financial History*, p. 253 *et seq.* For the debates, see *Annals of Congress*, 13th Congress, 1st session, pp. 319–328, 330–332, 351–383, 387–400, 405–413, 421–429, 441–446, 449–465, 477; Benton, *Abridgment*, vol. v., pp. 59–64. For text of these acts, see *Annals*, pp. 2700–2732, 2735–2759, 2761–2763, 2774–2777.

† Dewey, *Financial History*, p. 139.

‡ Act of August 2, 1813, 13th Congress, 1st session, chap. li.; *Annals*, pp. 2766–2773; McMaster, vol. iv., pp. 215–217.

§ Bolles, *Financial History*, p. 229; Dewey, *Financial History*, p. 134.

* Yet, as Mr. Ingersoll says, “it may be averred, to the honor of our country, that never were taxes, especially new ones, more promptly or cheerfully paid, nearly the whole amount accruing within the four years, being paid within that period; when the currency was deranged; without National Bank, or other general regulation; and of what was called money, little more than state bank notes, most of which, during the latter part of the war, were not convertible into coin, but mere promises to pay. The cost of collection never exceeded six per cent.”—*History of the Second War*, vol. i., p. 224.

LECTURES *on the* UNITED STATES

WILEY-RINES

SECTION X

LECTURES ON THE
UNITED STATES

WILEY RIVERS

